

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 INTERROGATORY DBP/USPS-
305

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

September 6, 2005

Respectfully submitted,

DAVID B. POPKIN, POST OFFICE BOX 528, ENGLEWOOD, NJ 07631-0528
R20051GGGmtc305

On August 10, 2005, I submitted Interrogatory DBP/USPS-305. On August 22, 2005, the Postal Service filed an objection to that interrogatory on the basis being an impermissible follow-up question.

The interrogatory read as follows:

DBP/USPS-305 Please refer to your response to DBP/USPS-281 subparts a and b. Now that the Postal Service has provided all of the information relating to the characteristics of the 19 various categories of EXFC mailpieces other than whether the mailpieces weigh one or two ounces, I have prepared a chart of the data as follows:

EXFC EVALUATION BY MAILPIECE CHARACTERISTICS

CODE	TYPE	WIDTH	LENGTH	ADDR	ZIP	CODE	POST	CFM	OVNITE	2DAY	3DAY	
A	C	4	6	PRIN	5	NO	MTR	NO	91.58	85.11	80.31	A
B	C	4	6	HAND	5	NO	STM	NO	89.13	80.86	79.47	B
C	OC	4.75	6.5	HAND	5	NO	STM	NO	95.21	89.77	85.18	C
D	F	9	12	HAND	5	NO	STM	NO	89.38	79.55	70.08	D
E	F	9	12	PRIN	5	NO	MTR	YES	88.78	79.02	69.43	E
F	L	4.125	9.5	PRIN	9	NO	MTR	YES	94.03	89.08	83.20	F
G	L	4.5	10.31	HAND	5	NO	STM	NO	96.32	92.20	86.26	G
H	L	4.125	9.5	HAND	5	NO	STM	NO	96.17	90.99	85.16	H
I	L	3.625	6.5	HAND	5	NO	STM	NO	93.66	88.78	82.71	I
J	L	4.125	9.5	PRIN	5	NO	STM	YES	96.79	92.26	85.71	J
K	L	4.125	9.5	PRIN	9	NO	MTR	YES	95.47	90.71	85.08	K
L	L	4.125	7.25	PRIN	9	NO	MTR	YES	95.26	88.92	82.66	L
M	L	4.125	9.5	PRIN	9	NO	STM	YES	94.61	93.41	85.19	M
N	L	4.125	9.5	PRIN	5	NO	MTR	NO	96.15	91.61	84.85	N
O	L	4.375	7.625	PRIN	9	YES	MTR	YES	95.69	91.00	83.64	O
P	L	3.875	7.5	PRIN	9	YES	MTR	YES	95.55	90.88	83.99	P
Q	L	3.625	6.375	PRIN	9	NO	MTR	YES	94.19	88.98	82.55	Q
R	L	4.125	9.5	PRIN	9	NO	MTR	YES	96.62	92.33	85.57	R
S	L	3.875	8.875	PRIN	9	YES	STM	NO	94.93	93.14	87.13	S

- CODE** Mailpiece code A through S
- TYPE** Mailpiece type // C=card OC=Oversize card F=Flat L=Letter
- WIDTH** Width in inches
- LENGTH** Length in inches
- ADDR** PRIN=address is printed HAND=address is handwritten
- ZIP** Address is shown with either 5- or 9-digit ZIP Code
- CODE** Mailpiece contains a preprinted 11-digit barcode
- POST** Method of postage // MTR=postage meter STM=postage stamp
- CFM** Mailpiece contains a CONFIRM barcode
- OVNITE** Percent on-time for Overnight Mail for PQ 2 FY 2005
- 2DAY** Percent on-time for 2-Day Mail for PQ 2 FY 2005
- 3DAY** Percent on-time for 3-Day Mail for PQ 2 FY 2005

No mailpiece utilizes additional services such as Certified Mail, Registered Mail, COD, or Insured Mail.

All mailpieces are either one ounce or two ounces [other than cards].

The characteristics for categories F, K, and R appear to be the same. Please advise the differences or distinctions between these three categories.

This Interrogatory is part of a whole series of interrogatories that are related to evaluating the EXFC program and the performance of each of the different categories of mailpieces that are utilized in the program. Presiding Officer's Ruling R2005-1/43 issued on July 8, 2005 is also involved.

The previous interrogatory was DBP/USPS-281 which related to the size and weight of the mailpieces.

DBP/USPS-281 Please refer to your response to DBP/USPS-129. Presiding Officer's Ruling No. R2005-1/43 issued on July 8, 2005, compelled a response to DBP/USPS-129. The two remaining questions are the dimensions and weight of each of the 19 categories of mailpieces A through S.

[a] Please provide the dimensions of the mailpiece [letters, cards, and flats] that are associated with each of the 19 categories A through S. Please provide a separate listing of the dimensions that are associated with each of the letters A through S.

[b] Please provide the weight [identify it as either one ounce or two ounces] of the mailpiece that are associated with each of the 19 categories A through S other than the categories that are associated with cards.

[c] Please confirm, or explain if you are unable to confirm, that postcards are limited to a maximum size of 4-1/4 inches high and 6 inches long and that a postcard that was 4-3/4 inches high by 6-1/2 inches long would not be classified as a postcard and would require the payment of the letter rate postage, currently 37¢.

[d] Please confirm, or explain if you are unable to confirm, that the mailpiece referred to in subpart c above is the mailpiece listed as category C and is listed as a CDLTR type since it looks like a postcard but is oversize and therefore categorized as a letter.

RESPONSE:

(a-b) The Ruling compelled a general response to the interrogatory, which is what the Postal Service provided.

(c) Confirmed. That is the amount of postage affixed.

(d) Confirmed that the piece in question is the CDLTR.

Interrogatory DBP/USPS-129 is as follows:

RESPONSE OF THE UNITED STATES POSTAL SERVICE TO INTERROGATORY OF DAVID POPKIN

Revised: July 18, 2005

DBP/USPS-129 Please refer to your response to DBP/USPS-8 subpart g. [a] Since there appears to be a significant difference in the percent on time for the 19 different categories of mailpieces, please provide the details and specifics of each of the 19 categories of mailpieces [A through S], such as dimensions, weight, method of addressing, etc. [b] Since the CDLTR mailpiece category C seems to have an on time record of a letter and significantly better than a card, please provide a sample of this type of mailpiece. [c] Please provide a tabulation of the EXFC scores by letter, card, and flat shapes for overnight, 2-day, and 3-day mail for each quarter of the past three years.

RESPONSE:

[a-b] Letter envelopes are in eight sizes. The smallest is 3 5/8" x 6 1/2 ". The largest is 4 1/2" x 10 5/16". Weights range up to two ounces. Flat envelopes are 9" x 12". Weights range up to two ounces. Postcards are 4" x 6" or 4 3/4" x 6 1/2".

[c] See the attached chart.

Shape Quarter I Quarter II Quarter III Quarter IV Quarter I Quarter II Quarter III Quarter IV Quarter I Quarter II Quarter III Quarter IV
CARD 89.31% 90.07% 90.10% 90.15% 90.40% 90.26% 90.83% 91.29% 91.01% 91.63% 91.90% 91.36%
FLAT 83.41% 83.16% 84.03% 86.16% 86.14% 87.96% 89.78% 89.76% 88.99% 89.91% 90.34% 90.11%
LETR 93.66% 94.24% 94.95% 94.74% 94.86% 95.10% 95.67% 95.50% 95.38% 95.76% 96.08% 95.74%
Shape Quarter I Quarter II Quarter III Quarter IV Quarter I Quarter II Quarter III Quarter IV Quarter I Quarter II Quarter III Quarter IV
CARD 79.27% 78.42% 82.11% 83.90% 85.08% 82.12% 84.64% 86.23% 84.99% 86.27% 87.97% 87.33%
FLAT 67.37% 69.05% 71.09% 76.86% 77.10% 79.06% 82.13% 81.98% 80.18% 81.15% 81.14% 81.92%
LETR 83.22% 83.33% 87.66% 90.05% 91.13% 89.40% 91.95% 92.22% 90.87% 91.97% 92.85% 92.89%
Shape Quarter I Quarter II Quarter III Quarter IV Quarter I Quarter II Quarter III Quarter IV Quarter I Quarter II Quarter III Quarter IV
CARD 69.95% 67.32% 78.03% 80.83% 83.62% 77.66% 83.94% 85.62% 80.50% 84.13% 85.82% 86.44%
FLAT 52.05% 55.53% 66.91% 74.66% 74.27% 73.23% 77.12% 77.82% 73.77% 75.47% 77.92% 78.58%
LETR 74.06% 75.11% 84.84% 88.91% 89.72% 84.43% 90.18% 91.26% 86.55% 88.89% 91.97% 91.53%

Attachment to Response to DBP/USPS-129(c)

FY 2002 FY 2003 FY 2004

FY 2002 FY 2003 FY 2004

External First-Class Mail Measurement System

National Weighted Scores by Shape: Overnight

National Weighted Scores by Shape: Two-Day

National Weighted Scores by Shape: Three-Day

FY 2002 FY 2003 FY 2004

IBM Corporation

RESTRICTED INFORMATION

The original response filed on June 20, 2005 was as follows:

DBP/USPS-129

Please refer to your response to DBP/USPS-8 subpart g. [a] Since there appears to be a significant difference in the percent on time for the 19 different categories of mailpieces, please provide the details and specifics of each of the 19 categories of mailpieces [A through S], such as dimensions, weight, method of addressing, etc. [b] Since the CDLTR mailpiece category C seems to have an on time record of a letter and significantly better than a card, please provide a sample of this type of mailpiece. [c] Please provide a tabulation of the EXFC scores by letter, card, and flat shapes for overnight, 2-day, and 3-day mail for each quarter of the past three years.

RESPONSE:

[a] Not all of the differences are significant. In any event, see the objection to this interrogatory filed on June 16, 2005, and the revised response to DBP/USPS-8(g) filed on June 14, 2005.

[b] See the objection filed on June 16, 2005.

[c] A response is forthcoming.

The revised response to Interrogatory DBP/USPS-8 subpart g is as follows:

**RESPONSE OF UNITED STATES POSTAL SERVICE
TO INTERROGATORY OF DAVID B. POPKIN**

Revised: June 15, 2005

DBP/USPS-8. In regard to the Service Commitments / performance goals for First-Class Mail, [a] do the delivery standards apply to all types of First-Class Mail regardless of whether it is a letter, card, parcel, flat, or other shape or type? [b] Do the delivery standards apply regardless of the method by which the article is addressed such as printed vs. handwritten? [c] Do the delivery standards apply regardless of whether the article has no ZIP Code or a 5- or 9-digit

ZIP Code? [d] Do the delivery standards apply regardless of whether or not the article contains a 5-, 9-, or 11-digit barcode applied by the mailer? [e] Do the delivery standards apply regardless of any other services that are utilized such as Certified Mail, Registered Mail, COD, Insured Mail? [f] Do the delivery standards apply whether or not the postage is paid by stamps which require cancellation or by some other means, such as a postage meter, which does not require cancellation. [g] Are the EXFC results broken out by any sub-scores for different characteristics of mail as noted in subparts a through f above? If so, provide results for the most recent period. [h] Elaborate and explain any negative answers.

RESPONSE:

[g] EXFC subscores are available by shape for individual mailpiece designs as listed in the chart below; however, these scores are not aggregated by shape. The CDLTR designation is used for a particular mail piece design that can be fabricated as either a postcard or a letter on which appropriate postage is paid). The individual mailpiece designs listed in the chart below can also be identified by some of the specified characteristics other than shape; however, EXFC scores are not aggregated by these characteristics. For each of the listed characteristics, the individual mailpieces with those characteristics are identified.

Method of addressing (printed or handwritten) – Kit types A, E, F, J, K, L, M, N, O, P, Q, R, and S have machine printed addresses. Kit types B, C, D, G, H, and I have handwritten addresses.

Presence of a ZIP Code (none, 5-digit, or 9-digit) – All kit types are prepared with a ZIP Code. Kit types A, B, C, D, E, G, H, I, J, and N have 5-digit ZIP Codes. Kit types F, K, L, M, O, P, Q, R, and S have 9-digit ZIP Codes.

Presence of a mailer-applied barcode (5-digit, 9-digit, or 11-digit) The EXFC contractor applies 11-digit barcodes to kit types O, P, and S. No other EXFC kits types have contractor-applied barcodes.

Use of additional services (Certified Mail, Registered Mail, COD, or Insured Mail.) No EXFC pieces use Certified Mail, Registered Mail, COD or Insurance.

Method of postage payment (stamp or postage meter) – Kit types A, E, F, K, L, N, O, P, Q, and R have postage paid through a meter imprint. Kit types B, C, D, G, H, I, J, M, and S have postage paid using stamps.

EXFC Scores by Shape

Quarter 2 FY 2005

Service Standard Percent on Time

Mail Piece Shape Overnight Two-Day Three-Day

A CARD	91.58	85.11	80.31
B CARD	89.13	80.86	79.47
C CDLTR	95.21	89.77	85.18
D FLAT	89.38	79.55	70.08
E FLAT	88.78	79.02	69.43
F LTR	94.03	89.08	83.20
G LTR	96.32	92.20	86.26
H LTR	96.17	90.99	85.16
I LTR	93.66	88.78	82.71
J LTR	96.79	92.26	85.71
K LTR	95.47	90.71	85.08
L LTR	95.26	88.92	82.66
M LTR	94.61	93.41	85.19
N LTR	96.15	91.61	84.85
O LTR	95.69	91.00	83.64
P LTR	95.55	90.88	83.99
Q LTR	94.19	88.98	82.55
R LTR	96.62	92.33	85.57
S LTR	94.93	93.14	87.13

The original response filed April 22, 2005 is as follows:

DBP/USPS-8

In regard to the Service Commitments / performance goals for First-Class Mail: [a] Do the delivery standards apply to all types of First-Class Mail regardless of whether it is a letter, card, parcel, flat, or other shape or type?

[b] Do the delivery standards apply regardless of the method by which the article is addressed such as printed vs. handwritten?

[c] Do the delivery standards apply regardless of whether the article has no ZIP Code or a 5- or 9- digit ZIP Code?

[d] Do the delivery standards apply regardless of whether or not the article contains a 5-, 9-, or 11-digit barcode applied by the mailer?

[e] Do the delivery standards apply regardless of any other services that are utilized such as Certified Mail, Registered Mail, COD, Insured Mail?

[f] Do the delivery standards apply whether or not the postage is paid by stamps which require cancellation or by some other means, such as a postage meter, which does not require cancellation.

[g] Are the EXFC results broken out by any sub-scores for different characteristics of mail as noted in subparts a through f above? If so, provide results for the most recent period.

[h] Elaborate and explain any negative answers.

RESPONSE:

[a]-[f]. Affirmative.

[g] To a degree. Data forthcoming.

[h] N/A

The response to Interrogatory DBP/USPS-171 provided details on the EXFC categories that contained Confirm PLANET Codes.'

DBP/USPS-171. Please refer to your response to DBP/USPS-8 subpart g. [a] In your upcoming responses to DBP/USPS-129, 130, and 131, it would appear that the revised response dated June 15, 2005 only stands to answer part of subpart a of DBP/USPS-129. Please also advise which of the 19 categories of mailpieces, if any, [A through S] use a CONFIRM code.

[b] Please confirm, or explain if you are unable to confirm, that CONFIRM codes are mailer applied.

[c] Please advise the use that is made of the CONFIRM code.

[d] Please advise the data that is contained in a CONFIRM barcode.

[e] Please advise whether your response to DBP/USPS-73 is still correct when one considers the availability of CONFIRM codes and their accessibility.

RESPONSE:

a. Of the kit types for EXFC mail identified in the revised response to interrogatory DPB/USPS-8(g), kits E, F, J, K, L, M, O, P, Q, and R may have Confirm PLANET Codes imprinted.

b. Confirm codes are applied by mailers or their agents.

c. Confirm codes are part of the Confirm service. See Docket No. MC2002-1.

d. Confirm can be used on outgoing or return mail. For outgoing mail, a Confirm PLANET barcode includes a 2-digit Service Type ID that mailers use to identify the service type, shape

and class of mail piece; a 5-digit Subscriber ID issued by the Postal Service as part of a Confirm subscription; and 4 or 6 additional digits for subscribers to use as they see fit (e.g., to identify entry point, campaign, client, etc.). For return mail (Origin Confirm), data include: 2-digit Service Type ID; and 9 or 11 additional digits for subscribers to use as they see fit.

e. The response to interrogatory DBP/USPS-73 is correct.

The relevant part of Presiding Officer's Ruling R2005-1/43 issued on July 8, 2005 is as follows:

DBP/USPS-129(a) and (b). This interrogatory is seeking information on the size and weight of the envelopes used in generating data related to the Postal Service's EXFC service performance measurement system. Interrogatory DBP/USPS-129(a) and (b) states:

Please refer to your response to DBP/USPS-8 subpart g. [a] Since there appears to be a significant difference in the percent on time for the 19 different categories of mailpieces, please provide the details and specifics of each of the 19 categories of mailpieces [A through S], such as dimensions, weight, method of addressing, etc. [b] Since the CDLTR mailpiece category C seems to have an on time record of a letter and significantly better than a card, please provide a sample of this type of mailpiece. [c] Please provide a tabulation of the EXFC scores by letter, card, and flat shapes for overnight, 2-day, and 3-day mail for each quarter of the past three years.

The Service objects on the ground that providing such information would compromise the integrity of the EXFC system. In response, and apparently in the spirit of compromise, Mr. Popkin withdraws his request for actual samples of the test envelopes used in the process, and narrowly tailors his request to only the size and weight of the test envelopes.⁸ Mr. Popkin contends that disclosing the size and weight will not compromise the integrity of the test system because of the millions of pieces of mail sent out every day which mirror those characteristics. Mr. Popkin further contends that he requires this information in order to determine if there is a relationship between the size and weight of the test mail and how the Service measures its level of service through the EXFC process.

The Service concedes that on-time performance is one of the variables taken into consideration when assessing the "value of service" for a mail class within the meaning of 39 U.S.C. § 3622(b)(2). Because the EXFC system measures the on time performance of the Postal Service's operations, then data related to the EXFC system which allows interveners to question its reliability may be relevant or lead to relevant information in this proceeding.

Further, the Service did not take issue with Mr. Popkin's contention that "[t]here are millions of pieces of 1-, 2-, and 3- ounce letters and different size envelopes sent every day,"⁹ and indeed stated that it would be "willing to provide broad descriptions of the mail pieces used in EXFC testing."¹⁰

Accordingly, the Service is to provide the size and weight information on the EXFC envelopes to Mr. Popkin, but no more information is necessary to fully respond to this narrowly tailored interrogatory.

⁸ Ibid.

⁹ Id. at 5.

¹⁰ Partial Objection of the United States Postal Service to Interrogatories of David Popkin [DBP/USPS-129(a-b)] at 1.

RULING

1. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-88, 90, 103, 129, 145, 147, June 19, 2005, in regard to:
(d) DBP/USPS-129(a) and (b) is granted consistent with the body of this ruling,

The responses to Interrogatories DBP/USPS-8 subpart g and DBP/USPS-171 when combined together provided a breakdown for each of the 19 separate categories of EXFC kits which have been designated as Categories A through S. Breakdowns were provided for each of the following categories:

1. How the mailpiece was addressed [by hand or printed]
2. The type of ZIP Code shown in the address
3. The type of prebarcoding by the mailer
4. How the postage was paid [metered or postage]
5. Whether Confirm PLANET barcodes were utilized
6. The results for overnight, 2-day, and 3-day mail

Each of these categories provided the data broken down for each of the separate categories shown as A through S.

Interrogatory DBP/USPS-129 asked for data, broken out by Categories A through S for such characteristics including dimensions and weight. The Postal Service objected to this Interrogatory on June 16, 2005, and I filed a Motion to Compel on June 20, 2005. Presiding Officer's Ruling R2005-1/43 issued on July 8, 2005, granted my Motion to Compel a response to Interrogatory DBP/USPS-129 subparts a and b.

The Ruling stated, "Accordingly, the Service is to provide the size and weight information on the EXFC envelopes to Mr. Popkin, but no more information is necessary to fully respond to this narrowly tailored interrogatory."

On July 18, 2005 the Postal Service provided a revised response to Interrogatory DBP/USPS-129 subparts a and b, as follows: "[a-b] Letter envelopes are in eight sizes. The smallest is 3

5/8" x 6 1/2 ". The largest is 4 1/2" x 10 5/16". Weights range up to two ounces. Flat envelopes are 9" x 12". Weights range up to two ounces. Postcards are 4" x 6" or 4 3/4" x 6 1/2".

Since the response provided only the range of envelope sizes and weights and did not provide the breakdown by Categories A through S as had been done with all of the previous inquiries, I followed up with Interrogatory DBP/USPS-281 on July 20, 2005, asking for the breakdown by Category A through S for the size and weight of the envelopes utilized in the EXFC program. On August 3, 2005, the Postal Service provided the following response, "(a-b) The Ruling compelled a general response to the interrogatory, which is what the Postal Service provided.

The Postal Service seemed to feel that the Presiding Officer's Ruling only required a "general response" with respect to the size and weight of the mailpiece. The Objection of the Postal Service filed on August 22, 2005 also claims that the Presiding Officer's Ruling only required the Postal Service to provide a general description of the dimensions and weights of EXFC test mail pieces. Nowhere in the ruling did the Presiding Officer utilize the words "general response" or "general description". Furthermore, since all of the previously supplied data had been broken down by the separate 19 Categories A through S, that it would be appropriate to break down the sizes and weights of the mailpieces by Categories. Perhaps, this "general response" was provided as a result of not having the original Motion to Compel denied.

Rather than filing another Motion to Compel, I attempted to resolve the question informally with Postal Service Counsel. Ultimately on August 9, 2005, I was informally provided with the sizes of the 19 Categories of mailpieces but was not provided with individual data for the weights of the individual categories. I was advised that this information would be difficult to obtain. I am somewhat confused that all of the other information regarding the size of mailpieces and their method of addressing, barcoding, and postage prepayment could be obtained but whether a mailpiece was one or two ounces could not be obtained.

At this point, I felt that I was finally provided with as much information as would be able to be obtained since the Postal Service appeared unwilling to provide data on whether a mailpiece was one or two ounces. The August 22, 2005, Objection also states that I did not need the individual weights and was only curious to obtain them. What I did say was that I felt that the level of service for First-Class Mail probably would be the same for 1- and 2-ounce mailpieces

and if I had to, I would forgo the weights by Category A through S if that would allow me to obtain the mailpiece dimensions which I feel are far more significant to the level of service.

The Postal Service claims that Interrogatory DBP/USPS-305 constituted an impermissible follow-up question. The interrogatory was filed within the required 7 day period after the response was made to Interrogatory DBP/USPS-281 along with the informal additional information to clarify that response.

Whether I have a fascination with EXFC or have a curiosity is irrelevant. Interrogatory DBP/USPS-305 only attempts to put all of the pieces together with respect to the 19 Categories of EXFC mailpieces and attempts to resolve what appears to be an error or inconsistency with the data that had been provided by the Postal Service in its many responses. There are three categories of mailpieces that have the same characteristics, namely Categories F, K, and R. Even if one of these was a 1-ounce piece and the other was a 2-ounce piece with all of the other characteristics the same, that would not account for three categories to all have the same characteristics other than possibly different weights.

This Interrogatory is not beyond the scope of Presiding Officer's Ruling R2005-1/43 since it takes the information which was provided in the responses and compelled response along with the informal addition and puts it all into a single chart. This chart contains all of the information provided in numerous responses of the Postal Service.

The Postal Service should not be allowed to provide all of these responses and then not be compelled to clarify a potential error or inconsistency.

For the reasons stated, I move to compel responses to the referenced interrogatory since it is reasonably calculated to lead to the discovery of admissible evidence.

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 September 6, 2005
