

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 RESPONSES  
TO INTERROGATORIES DBP/USPS-306, 307, 310  
(September 13, 2005)

In accordance with Rule 26(d) of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby responds in opposition to the David B. Popkin Motion to Compel Responses to Interrogatories DBP/USPS-306, 307, and 310, submitted on September 6, 2005. The interrogatories will be considered in turn.

**DBP/USPS-306**

The Postal Service objected to this interrogatory, which seeks operational details as to why certain ZIP Codes are not eligible destinations for A-Label Express Mail, on the grounds of relevance. Not unexpectedly, Mr. Popkin argues that this interrogatory is relevant because it relates to the "value of service" of A-Label Express Mail within the meaning of 39 U.S.C. § 3622(b)(2). Specifically, Mr. Popkin claims that "[t]he availability of A-Label Express Mail to all areas which have overnight First-Class Mail service standards is relevant to the value of service [of A-Label Express Mail]."

Mr. Popkin's cursory motion fails to provide any meaningful insight as to how this interrogatory is at all materially relevant to the "value of service" of A-Label Express Mail, or to any other issue in this proceeding. As § 3622(b)(2) states, one factor the Commission must consider in the course of recommending rates and fees for postal

services is the “value of the mail service actually provided each class or type of mail service to both the sender and recipient.” With regard to the available destinations for A-Label Express Mail, the Postal Service has already provided a list of every 5-digit ZIP Code to which such mail can be sent, and has thus provided extensive information as to this aspect of A-Label Express Mail service.<sup>1</sup> Specific operational details as to why certain ZIP Codes are not on that list, however, have little if any bearing on the service “actually provided” by A-Label Express Mail.

In the end, this interrogatory seeks a level of operational detail that is irrelevant to any issue in this proceeding. Mr. Popkin does not explain, nor indeed can he explain, how a discussion on the part of the Postal Service as to why the availability of overnight First Class Mail service does not automatically make a destination also eligible for A-Label Express Mail has any relevance to the “value of service” of A-Label Express Mail, or to the any other factor that the Commission might consider in recommending the rates for such mail.

### **DBP/USPS-307**

The Postal Service objected to this interrogatory on the grounds of relevance, noting that its detailed questions into various matters concerning USPS.com, 1-800-ASK-USPS, and the retail acceptance of A-Label Express Mail lack any material nexus to the ratemaking process. In his motion, Mr. Popkin claims that a response to this interrogatory is necessary in order to “resolve...apparent errors and inconsistencies in the Postal Service’s response to interrogatory DBP/USPS-211 as it relates to the ability of the public to utilize [ ] A-Label Express Mail.”

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<sup>1</sup> See Response of the United States Postal Service to DBP/USPS-210.

As an initial matter, Mr. Popkin's bald assertion that the Postal Service's response to DBP/USPS-211(a)-(b) contains "errors and inconsistencies" is completely baseless. In that response, the Postal Service indicated (through a cross-reference to its response to DBP/USPS-210(d)) that a customer can determine the availability of A-Label Express Mail from an origin ZIP Code to a destination ZIP Code through a variety of channels, including USPS.com, 1-800-ASK-USPS, or a retail clerk. This response was accurate at the time it was made, and remains accurate. In addition, when one examines the actual questions that Mr. Popkin has asked, it is often hard to see how they are motivated by a concern as to the accuracy of the Postal Service's response to DBP/USPS-211.

First, when one considers parts (a) and (c) of this interrogatory, it is evident that those questions are motivated not by a concern that the Postal Service's response to DBP/USPS-211 is erroneous, but by the fact that the level of detail provided in that response is not sufficient for Mr. Popkin's purposes. Parts (a) and (c) both seek specific details as to how a particular type of individual, who for some unknown reason desires to learn all of the available destinations for A-Label Express Mail within an entire 3-digit ZIP Code, would use USPS.com or a retail clerk to learn that information. While Mr. Popkin may find this line of inquiry interesting, it has no relevance to any issue in this proceeding, even if one considers Mr. Popkin's rote recitation that these questions are relevant to the "value of service" of A-Label Express Mail within the meaning of 39 U.S.C. § 3622(b)(2). Instead, these questions merely amount to nothing more than a further attempt by Mr. Popkin in this proceeding to delve into minutiae concerning the means by which Express Mail information is communicated to the public, attempts that

have consistently been rejected by the Presiding Officer.<sup>2</sup>

Second, Mr. Popkin cannot seriously claim that parts (d) and (e) are motivated by a belief that the Postal Service's response to DBP/USPS-210(c), which discusses the fact that Publication 272 is no longer available, contains "errors and inconsistencies." As such, his motion with regard to these questions amounts to nothing more than a vague assertion that they are relevant to the "value of service" of Express Mail. It is clear, however, that whether the Postal Service does, or does not, intend to replace or revive a publication that was discontinued many years ago is utterly irrelevant to this proceeding.

Finally, with respect to part (b) of this interrogatory, Mr. Popkin apparently thinks that his experience with the 1-800-ASK-USPS representative demonstrates that the Postal Service's response to DBP/USPS-211 is erroneous in stating that 1-800-ASK-USPS is one avenue by which customers can determine whether a ZIP Code is an available destination for A-Label Express Mail. Consistent with what Mr. Popkin relays in the second part of his question, if customers desire to know whether a particular ZIP Code can be a destination for such mail, 1-800-ASK-USPS representatives will direct them to call that post office, and will provide them with that post office's telephone number.<sup>3</sup> It does not follow, however, that the Postal Service's response to DBP/USPS-

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<sup>2</sup> In Presiding Officer's Ruling No. R2005-1/68, at 3 and 5, the Presiding Officer denied a motion to compel from Mr. Popkin with respect to certain interrogatories which sought highly detailed information concerning the provision of Express Mail information to the public through USPS.com and other sources. In Presiding Officer's Ruling No. R2005-1/77, at 2, the Presiding Officer denied another motion to compel with respect to an interrogatory that sought details as to how A-Label Express Mail information appears on USPS.com, a POS terminal, and in an Express Mail directory.

<sup>3</sup> The representative would thus not state that ZIP Code 90049 is an available destination for A-Label Express Mail, but would provide the telephone number of the

211 is somehow erroneous.<sup>4</sup> While the Postal Service's response to DBP/USPS-211 did not delve into the operational specifics concerning a customer's use of 1-800-ASK-USPS to acquire this information about A-Label Express Mail, it did so for the simple reason that such a response would have been overly detailed in the context of this proceeding.

Mr. Popkin has thus not identified any "error or inconsistency" in the Postal Service's response to DBP/USPS-211 that would be "resolved" through a response to part (b) of this interrogatory (or, for that matter, any other part of this interrogatory). In addition, compelling a response to part (b) cannot be justified on any other relevance grounds, including "value of service."<sup>5</sup> Instead, like parts (a) and (c) of this interrogatory, part (b) simply reflects the fact that Mr. Popkin is dissatisfied with the level of detail the Postal Service has provided in its previous responses on this topic.

### **DBP/USPS-310**

The Postal Service objected to this interrogatory on the grounds of relevance, noting that it seeks a level of operational data that is fundamentally irrelevant to the ratemaking process. In his motion, Mr. Popkin fails to respond to the Postal Service's

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post office. The lack of a factual foundation underlying part (b) of this interrogatory makes it impossible for the Postal Service to know for certain the circumstances that led to Mr. Popkin's understanding that the representative had identified ZIP Code 90049 as an available destination for A-Label Express Mail. In any event, this inquiry is not relevant to this proceeding. See Presiding Officer's Ruling No. R2001-1/42 at 3-4.

<sup>4</sup> If a mailer wishes to learn whether a ZIP Code is a destination for A-Label Express Mail, and wishes to use the telephone to do so, the logical way to acquire that information is through calling 1-800-ASK-USPS, which contains a list of the telephone number of every local post office.

<sup>5</sup> As the Presiding Officer noted in Docket No. R2001-1, questions that purport to explore statements attributed to 1-800-ASK-USPS representatives "lack the necessary nexus to...value of service considerations to compel the Postal Service to respond." See Presiding Officer's Ruling No. R2001-1/42 at 4.

objection in any meaningful way; instead, he simply makes the general statement that “[t]he ability to obtain retail window service on Saturday is directly related to the value of service of many services and is therefore relevant.”

However, even assuming for the sake of argument that this general statement on the part of Mr. Popkin is true, it does nothing to rebut the Postal Service’s objection to the *level of detail* sought by this interrogatory with respect to issue of Saturday retail window hours. In other words, Mr. Popkin completely fails to explain how a response to this specific interrogatory would provide a material contribution to the evidentiary record in this proceeding. The Postal Service has in this docket provided the percentage of offices with Saturday retail window hours, disaggregated to the Area level,<sup>6</sup> and has provided an explanation of the considerations that go into the decision to provide such hours.<sup>7</sup> There is, however, simply no justification for continuing this line of inquiry to the point where the Postal Service is forced, in the course of a proceeding concerning the recommendation of rates and fees for postal services at a nationwide level, to discuss why some parts of the country have a lower percentage of offices with Saturday retail hours than other parts of the country. Such a discussion is, rather, far removed from any material issue in this proceeding.

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<sup>6</sup> See Response of the United States Postal Service to DBP/USPS-226(e).

<sup>7</sup> See Response of the United States Postal Service to DBP/USPS-226(a).

Therefore, the Postal Service requests that Mr. Popkin's motion to compel with respect to these interrogatories be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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