

DOCKET SECTION
BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY
Docket No. R97-1

POSTAL RATE AND FEE CHANGES, 1997

**REPLY OF THE UNITED STATES POSTAL SERVICE TO PARTS OF
DAVID POPKIN MOTION TO COMPEL RESPONSES TO INTERROGATORIES**
(October 17, 1997)

The United States Postal Service hereby opposes the October 7, 1997 motion of David Popkin seeking to compel responses to interrogatories, to the extent that the motion can be interpreted as applying to the following interrogatories: DBP/USPS-6(h)-(p), (r)&(s); 7(a)-(k), (n)&(o); 8(a)-(d), (f)&(g), (dd)-(ff); 9(a)-(g); 13(a)-(c), (f)-(g); 16; 52(b)-(l); 59(a)-(g).¹ Mr. Popkin's motion only offers a few arguments specific to the aforementioned interrogatories. The Postal Service responds to those arguments below.

DBP/USPS-6(h)&(l) and (j)-(o)

At paragraph 5 of his motion, Mr. Popkin seems to argue that since some of his questions relate to quality of First-Class Mail service (as measured by EXFC), and since quality of service is related to "value of service" within the meaning of section 3622(b)(2), then all of his questions pertaining to the EXFC measurement system are relevant to the issues in this proceeding.

At page 4, his motion claims that interrogatories DBP/USPS-6 and 7 "are all

¹ In general, the Postal Service incorporates by reference the reasons stated in the Objection of United States Postal Service to Parts of David Poking Interrogatories (filed September 25, 1997), particularly DBP/USPS-6(h)-(p), (r)&(s); 7(a)-(k), (n)&(o); 8(a)-(d), (f)&(g), (dd)-(ff); 9(a)-(g); 13(a)-(c), (f)-(g); 16; 52(b)-(l); 59(a)-(g). This reply provides further argument in response to Mr. Popkin's motion to compel.

related to the service that it being provided." That is true, but the questions are still not relevant to the issues in this case. For instance, parts (h) and (i) of DBP/USPS-6 veer off into such matters as whether there are going to be more destinating sites added to the EXFC measurement system. The answer to this question is irrelevant to how current EXFC data should be interpreted or utilized for ratemaking purposes.

Parts (j) through (o) seek an explanation of postal operations on a post office-by-post office, collection box-by-collection box level, to determine whether any operational changes by any employee seeking to improve the quality of service were motivated by any consideration of EXFC. Although the quality of First-Class Mail service is relevant to the "value of service" question on an aggregate level, an examination of the motivation for every act of every postal employee seeking to improve service is not. Moreover, canvassing thousands of post offices and hundreds of thousands of employees to make such a determination is unduly burdensome beyond anyone's ability to measure.

DBP/USPS-7(a)-(k)&(n)-(o)

The subparts objected to here contain questions which are related to First-Class Mail service in only the most general sense. Nevertheless, they are not relevant to the issues in this proceeding. Mr. Popkin's motion offers no explanation why the Postal Service should be required to respond to these questions.

DBP/USPS-8(dd)-(ff)

Questions seeking to determine how a postal service now defunct for 20 years (Airmail Service) compares with current services are clearly irrelevant.

DBP/USPS-9

The Postal Service objected to confirming that certain unambiguous information provided in its Request is unambiguous. Other than state that the interrogatory is

"related to the service commitments and performance goals for First-Class Mail," Mr. Popkin's motion offers no reason why the Postal Service's resources should be wasted by confirming that the unambiguous service standards which clearly apply to all First-Class Mail unambiguously and clearly apply to all First-Class Mail. Next.

DBP/USPS-13(a)-(c)

Mr. Popkin's motion offers no rationale for his request that the Postal Service should be compelled to confirm that the DMCS says what the DMCS says.

DBP/USPS-13(f)-(g)

With respect to these interrogatories, Mr. Popkin should be made to understand that there are adverse consequences to his imprudent use of time at the Commission last week. During his visit to Washington, D.C., Mr. Popkin had access to Library Reference H-187, which contains a history of all volume, revenue, rate and fee histories for all subclasses and special services since 1970. The data in that document provide him all the information he needs to perform the comparisons of interest to him. The Postal Service should not be compelled to provide research assistance and support staff resources for intervenors who elect not to examine available information and who make no requests for access to that information. "Do . . . [we] really expect . . . [Mr. Popkin] to come down to Washington just to develop the data with respect to the rates?" Not necessarily. But we do expect that if he can come to Washington to cross-examine witnesses and personally serve his motion to compel on Postal Service counsel, he has the time to review Library Reference H-187 (either at the Commission or at the USPS Headquarters Library) while in town, and to pull out pencil and paper, and do the arithmetic he seeks to have the Commission compel a postal analyst to perform.

The test is not whether the Postal Service could do Mr. Popkin's work, but

whether the Postal Service should be compelled to do his work for him. Under the circumstances here, any expenditure of Postal Service resources would be an undue expense and an undue burden.

DBP/USPS-16

Mr. Popkin's arguments go the merits of the legal issue of whether certain items are philatelic in nature. His arguments do not overcome the Postal Service's objections. His motion to compel (at page 6) appears to concede that his questions call for legal conclusions, but he believes that such legal conclusions can be stated in institutional interrogatory responses. To the contrary, the Postal Service considers that legal conclusions are the province of legal counsel and are best stated in brief. If Mr. Popkin wants to argue the issue on brief, the Postal Service will respond accordingly.

DBP/USPS-52(j)

The basis for the objections to DBP/USPS-13(f)-(g) apply here. This interrogatory requests that the Postal Service create a table for Mr. Popkin from information he has been provided. Again, the test is not whether the Postal Service could do Mr. Popkin's work, but whether a party should be allowed to abuse the discovery process in order to get the Postal Service manipulate the Commission into directing the Postal Service to do his work for him. Under the circumstances, any expenditure of Postal Service resources would be an undue expense and an undue burden. Intervention in these proceedings is not without burden and responsibility. No intervenor should be permitted to shirk the latter to avoid the former.

DBP/USPS-52(l)

Mr. Popkin's motion offers no compelling reason why the Postal Service should speculate about what options might be chosen by Mr. Popkin's version of the "knowledgeable mailer." If Mr. Popkin has beliefs on the subject, he is free to offer

"knowledgeable mailer." If Mr. Popkin has beliefs on the subject, he is free to offer them in testimony or briefs. Given Mr. Popkin's unique perspective on postal matters, the Postal Service has no confidence that it could ever come to a meeting of the minds with Mr. Popkin concerning what might be in the mind of his "knowledgeable mailer."

DBP/USPS-59

The Postal Service interprets the motion to compel to pertain to its objections to parts (d)-(g). These questions ask for the production of a cost study on certain weight increments of Standard (A) single piece mail which the Postal Service has not performed and which would take several months to perform, assuming reliable cost data could be developed at the unprecedented level of disaggregation that Mr. Popkin seeks. The Postal Service considers the cost and burden of such a study to greatly outweigh any potential utility, since it would pertain to the Standard Mail (A) single piece subclass, which the Commission has urged the Postal Service to consider eliminating and which the Postal Service proposes be eliminated in this proceeding.

For all these reasons, Mr. Popkin's motion should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

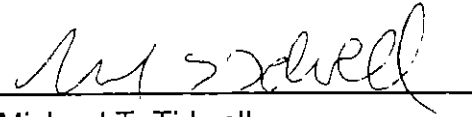
By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

A handwritten signature in black ink, appearing to read "Michael T. Tidwell", written over a horizontal line.

Michael T. Tidwell

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.


Michael T. Tidwell

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