

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

Postal Rate Commission
Submitted 7/24/2006 5:42 am
Filing ID: 51077
Accepted 7/24/2006

Postal Rate and Fee Changes, 2006]

DOCKET NO. R2006-1

DAVID B. POPKIN MOTION TO COMPEL RESPONSES TO INTERROGATORIES
DBP/USPS-110 THROUGH 113 AND 115 THROUGH 120

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

July 24, 2006

Respectfully submitted,

R20061MTC7A110120

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

On June 27, 2006, I submitted Interrogatories DBP/USPS-110 through 113 and on June 28, 2006, I submitted Interrogatories DBP/USPS-115 through 120. On July 10, 2006, the Postal Service filed an objection to these interrogatories.

The interrogatories read as follows:

DBP/USPS-110 [a] Please refer to your response to Interrogatory DBP/USPS-85. Please confirm, or explain if you are unable to confirm, that you are considering the services that are provided by droppers, reporters, and return address panel members in both the EXFC and PETE programs to be professional services.

[b] Please define the term professional services as used in the original response.

DBP/USPS-111 [a] Please refer to your response to Interrogatory DBP/USPS-85. Please advise if any or all of the droppers, and/or reporters, and/or return address panel members are employees of the EXFC/PETE Contractor.

[b] If so, are they paid compensation at or above the minimum wage?

DBP/USPS-112 [a] Please refer to your response to Interrogatory DBP/USPS-85. Please advise if any or all of the droppers, and/or reporters, and/or return address panel members are independent contractors of the EXFC/PETE Contractor.

[b] If so, are they paid compensation at or above the minimum wage?

DBP/USPS-113 [a] Please refer to your response to Interrogatory DBP/USPS-85. Please advise if any or all of the droppers, and/or reporters, and/or return address panel members are volunteers of the EXFC/PETE Contractor.

[b] If so, are they paid a cash compensation at or above the minimum wage?

[c] If so, are they paid a cash compensation less than the minimum wage?

[d] If so, are they paid a token non-cash compensation?

[e] If so, are they not provided any compensation?

=====

DBP/USPS-115 Please advise the number of droppers that are being utilized in the First-Class Mail EXFC Program.

DBP/USPS-116 Please advise the number of droppers that are being utilized in the Priority Mail PETE Program.

DBP/USPS-117 Please advise the number of return address panel members that are being utilized in the First-Class Mail EXFC Program.

DBP/USPS-118 Please advise the number of return address panel members that are being utilized in the Priority Mail PETE Program.

DBP/USPS-119 [a] Does the EXFC and/or PETE Programs provide written instructions to the members of the return address panel?

[b] If not, please explain how they are trained.

[c] If so, please provide copies.

DBP/USPS-120 Please refer to the reporter and dropper EXFC and PETE instructions that are referenced in Interrogatories DBP/USPS-62, 65, 79, and 80 and to any instructions that exist in response to Interrogatory DBP/USPS-119.

[a] Please confirm, or explain if you are unable to confirm, that these instructions are provided to each and every member of the group to which they apply [i.e. the EXFC Dropper instructions are provided to the EXFC Droppers, etc.]

[b] Please advise the number of pages and the size of page for each of the instruction "manuals".

[c] Please advise how each of the instruction "manuals" have been marked confidential in accordance with 18 U.S.C. § 1905.

[d] Please provide the specific wording that is used to provide the droppers/reporters/return address panel members of their obligations under 18 U.S.C. § 1905.

The Postal Service objected to Interrogatories DBP/USPS-110 through 113 on the bases of relevance, materiality, and redundancy. They also claim that they responded to DBP/USPS-85. The response to DBP/USPS-85 utilized the term "professional services". Interrogatory DBP/USPS-110 is attempting to determine the meaning of this term. The Postal Service should not be allowed to respond to an Interrogatory and then refuse to clarify the meaning of a term used in that response. Interrogatories DBP/USPS -111 through 113 are attempting to

clarify the same term "professional services" as to whether that means these individuals are "legal" employees of the contractor, independent contractors, or volunteers. For the employee and independent contractor categories the subpart b is attempting to confirm that they are at least paid the minimum wage. For the volunteer category, there were also additional "wage" categories asked.

These interrogatories are relevant since they are attempting to determine the reliability of the EXFC data. The reliability of the EXFC data relates to the value of service of First-Class Mail. The main component of the accuracy of the data is the work that is done by the droppers, reporters, and return address panel members in the field. The objection indicates that they involve the relationship between a contractor and its own employees. First of all, they have not confirmed that they are employees as asked by Interrogatory DBP/USPS-111 or are independent contractors or volunteers as asked by Interrogatories DBP/USPS-112 and 113. The Postal Service admits that the underlying Interrogatory DBP/USPS-85 sought relevant information. If DBP/USPS-85 is relevant, then DBP/USPS-110 through 113 are also relevant. Furthermore, the contractor is providing a service to the Postal Service.

Interrogatories DBP/USPS-115 through 118 ask for the numbers of droppers and return address panel members are utilized in the EXFC and PETE programs. The Postal Service claims that this information is irrelevant and immaterial to the ratemaking. The number of droppers and return address panel members when evaluated with the volume of activity in the EXFC and PETE programs will provide an indication of the reliability of the data. Furthermore, on July 20, 2006, the Postal Service in its response to Interrogatories DBP/USPS-52 and 53 provided the number of reporters in the EXFC and PETE programs as noted below. If the number of reporters is relevant, the number of droppers and return address panel members is equally relevant.

DBP/USPS-52. Please advise the total number of reporters utilized in the First-Class Mail EXFC program.

RESPONSE:

12,604 reporters were used in FY 2006, Q2.

DBP/USPS-53. Please advise the total number of reporters utilized in the Priority Mail PETE program.

RESPONSE:

[2709 reporters were used in FY 2005, Q4.

Interrogatories DBP/USPS-119 and 120 are attempting to learn how the EXFC/PETE field personnel are trained. The Postal Service claims that these two Interrogatories ask for information that is proprietary and commercially sensitive. Whether or not these individuals are provided or are not provided with written instructions is not proprietary and is not commercially sensitive. How "manuals: are marked to show they are confidential is not proprietary and is not commercially sensitive.

The type of training that is provided to these individuals is related to the value of service of First-Class Mail and Priority Mail.

These interrogatories are attempting to evaluate the reliability of the EXFC and PETE Programs and the data that has been introduced in this Docket to show the value of service for First-Class Mail and Priority Mail.

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.

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 24, 2006
