

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

POSTAL RATE AND FEE CHANGES

Docket No. R2006-1

REPLY OF UNITED STATES POSTAL SERVICE
TO MOTION OF DAVID POPKIN TO COMPEL RESPONSES
TO INTERROGATORIES DBP/USPS-241-252
(August 9, 2006)

The United States Postal Service hereby replies to Mr. Popkin's motion to compel responses to interrogatories DBP/USPS-241-252 (Motion).¹ The interrogatories were filed on July 10, 2006, while the Postal Service objection was timely filed on July 20, 2006 (Objection).²

The Postal Service Objection was detailed and lengthy, setting forth various grounds for each of the questions; accordingly, the arguments therein are incorporated here by reference. Since both the Motion and the Objection set for the full text of each interrogatory, they are not repeated again below.

In large measure, the Motion relies upon a relevance argument stemming from a footnote in the Commission's Opinion and Recommended Decision from Docket No. R2005-1 regarding a \$1 charge for internet change of address orders (COAs). When a customer submits a COA, the Postal Service quite reasonably needs to verify that the order has been submitted by the actual addressee at a given delivery point, rather than someone attempting to hijack another's mail. In the hard copy world, this is accomplished by sending a confirmatory mailpiece to the address requesting confirmation of the COA. In the faster moving world of the internet, the identity of the individual filing a COA is instead verified by use of a credit card; if the billing address for the credit card matches the address for which a COA is submitted match, then the COA is considered valid and is processed accordingly. However, credit card issuers charge the Postal Service for the performance of the address verification. As such, the Postal Service passes this charge on to the customer whose credit card is used. Hence the \$1 fee.

Most of the interrogatories in the set consisting of DBP/USPS-241-252 have no relationship to the credit card fee. The Postal Service notes in its Objection that most of this

¹ *David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-241 Through 252*, (August 2, 2006).

² *Objections Of The United States Postal Service To Interrogatories Of David B. Popkin (DBP/USPS-241-252)* (July 20, 2006).

series of interrogatories stem from a *Federal Register* notice,³ a point which the Motion concedes. Mr. Popkin correctly notes that such notices do not operate so as to define the limits of what is relevant in this docket. However, the questions do arise, in significant respects, from that FR notice, and beyond the footnote in the previous Commission Opinion he does make any argument as to why these interrogatories are relevant in this docket. The simple reason for the absence of his argument on this point is that the questions are **not** relevant.

241: This interrogatory inquires into the duration of forwarding orders, as well as hold mail orders. Clearly these questions have no relationship to the \$1 fee. Just as clearly, they have no bearing on the rates, fees and classifications at issue in this docket. The answers are well known to Mr. Popkin, and even if they were not, they are restated in the FR notice (except for hold mail orders). As such, the irrelevance is patent. Mr. Popkin evidently believes, after noting that the Postal Service objects on grounds of relevance, that the sole determinant of relevance is whether the interrogatory was filed before the close of discovery on the Postal Service direct case. MTC at 4. The admission by Mr. Popkin's that the sole test of relevance he applies is whether an interrogatory is timely constitutes refreshing frankness, but adds nothing to his argument that these questions retain any relevance. Mr. Popkin further asserts that answers to this question "have relevance to the value of service of all of the classes of mail that utilize the change of address program." Whether any particular subclass of mail is, or is not, subject to temporary or permanent forwarding orders could bear upon the value of service. However, that fact alone does not mean that each and every minutia of forwarding also thereby becomes relevant. No changes in what mail in which subclasses are, or are not, subject to forwarding orders are proposed in this docket; nor can the requested details illuminate in any way how subclasses vary in their amenability to forwarding. Mr. Popkin fails even to argue that hold mail orders are relevant, thus confirming the propriety of the Postal Service objection. As noted in the Objection, the answers to this interrogatory are already a matter of public record, judicially noticeable by the Commission, as a consequence of the referenced *Federal Register* notice, also making the questions cumulative.

242-246: The Motion does not address these interrogatories with any specificity, instead relying upon discussion of the footnote in the Commission's recent Opinion plus his comments on *Federal Register* notices. His inability even to argue the relevance of these questions simply

³ The *Federal Register* notice, a copy of which was attached to the Objection, announces an interim rule that requires temporary forwarding orders to have a minimum duration of fourteen days, with a maximum duration of six months. However, the ability to file a second temporary forwarding order to cover an additional six months means that the current total duration of temporary forwarding remains twelve months.

underscores the fact that none of these questions bear in any way upon either the \$1 fee or any other issue in the current proceeding.

242: This question appears to inquire into the procedures entailed in forwarding mail and the service standards applicable to forwarded mail.⁴ As such, it is clear that Mr. Popkin's failure to argue the relevance of this question's parts amounts to a tacit recognition that they are not relevant. This interrogatory also suffers from vagueness when it asks about the "action taken by the Postal Service with respect to each category or type of mail received while a temporary or permanent Change of Address Order is in effect." The short answer would either be that mail is, or is not, forwarded; yet one can well imagine that were such a response provided Mr. Popkin would be quick to re-interpret his original question in the guise of a follow-up interrogatory which then explains what kind of answer he prefers. In the Objection, the Postal Service evidenced a willingness to reconsider its objection to this question if some better tie to issues in this docket were identified by the proponent. In the absence of such a tie, the Postal Service must maintain its objection.

243: This interrogatory appears to inquire into the time it takes to process and implement forwarding orders, a subject covered at some length in the *Federal Register* notice itself as part of the explanation of why the interim rule has been made effective. Once again, there is no nexus with the \$1 fee and Mr. Popkin fails to articulate any reason why the interrogatory is relevant to the instant proceeding. However, with questions framed around the effective date of the interim rule, it is clear that Mr. Popkin is attempting to fashion questions regarding the *Federal Register* notice. Answers to this question can serve no useful purpose in this proceeding. In the Objection, the Postal Service evidenced a willingness to reconsider its objection to this question if some better tie to issues in this docket were identified by the proponent. In the absence of such a tie, the Postal Service must maintain its objection.

244: This interrogatory at least has some articulated nexus to the \$1 charge, inquiring about the circumstances in which it would apply. Unfortunately, the respective questions are exceptionally difficult to parse, with the details request quite immaterial to the rates, fees and classifications proposed in this docket. The last part of this interrogatory concludes with a question that resonates with irrelevance especially well: what happens to mail when no forwarding order is in effect. The irrelevance of this interrogatory is overtaken only by its overbreadth. While some parts of this interrogatory are answered in the *Federal Register* notice, all of the requested operational minutiae are immaterial. In the Objection, the Postal Service evidenced a willingness to reconsider its objection to this question if some better tie to

⁴ There are no such service standards.

issues in this docket were identified by the proponent. In the absence of such a tie, the Postal Service must maintain its objection.

245: This interrogatory sets new standards for irrelevance as it ventures into questions about the *Federal Register* notice's content, both questioning the deadlines it provides while posing other questions answered specifically in the notice itself. In light of the proponent's usual patterns one might surmise that he would prefer to argue with the responses already available within the notice, but nor is that a proper purpose for discovery. He can submit comments in response to the Federal Register notice where one can be sure his comments will be considered.

246: This interrogatory inquires into minor operational details of hold mail service and into the conjunction of a COA and hold mail, although as noted in the Objection, the respective parts of the interrogatory appear to stem from the *Federal Register* notice itself. In the Objection, the Postal Service evidenced a willingness to reconsider its objection to this question if some better tie to issues in this docket were identified by the proponent. With the only tie to relevance argued in the Motion being the footnote from the Commission's Opinion – which bears no relationship to this interrogatory – and in the absence of tie to relevance, the Postal Service must maintain its objection.

247: The only tie of this question to rates, fees and classifications in the DMCS consists of a reference to Premium Forwarding Service (PFS). PFS, however, is not implicated at all by the Postal Service Request, and questions about PFS have drawn an objection. As such, the Postal Service submits that the operational detail sought by this interrogatory is irrelevant and immaterial to this docket.

248: This interrogatory returns to the subject of the *Federal Register* notice, inquiring into various operational minutiae that the proponent postulates as arising because of the effective date for the interim rule explained in the notice. The interrogatory also uses language that is vague, a point noted in the Objection. No parts of the question inquire into matters that are relevant or material to issues in this docket; nor does the Motion identify any further nexus to this docket, as requested by the Objection. In the absence of such a tie, the Postal Service must maintain its objection on the grounds of vagueness, materiality and relevance

249: This interrogatory, which simply asks, "Please advise the time frames that are observed when a customer files a Permanent Change of Address," is also fatally vague. The Motion responds, in part, to the vagueness, but not in a way that makes the interrogatory relevant or material to issues in this docket.

250: This interrogatory amply demonstrates the proponent's fertile capability of inquiring about operational minutiae, in this instance involving multiple moves and mind changes by a mobile customer who files a COA. These questions are simply not material or relevant to a general rate case.

251: This interrogatory harkens back to questions posed by the proponent regarding Premium Forwarding Service in Docket No. MC2005-1, although without mentioning the service by name. Moreover, the question postulates an error made by a postal customer when filling out a COA, and asks about consequent impacts. The Postal Service objects on grounds of materiality and relevance, and because the question calls for speculation. The Postal Service does not know how this exact situation would be handled, and could not state how it would be handled with additional information such as when and how the problem was discovered by whom, and what was then done about the error. Postulating a customer mistake and then asking how the Postal Service would handle the matter – and the regulatory authority underlying such action – puts an inherently unfair burden on the Postal Service and would further tend to make the boundaries of reasonable discovery disappear.

252: This interrogatory inquires about general delivery service operations and regulatory authority. The Postal Service Request does not propose any changes for general delivery service which, in any event, is free to customers. The Postal Service accordingly maintains its objection of the grounds of materiality and relevance.

WHEREFORE, the United States Postal Service asks that the Motion to compel responses to interrogatories DBP/USPS241-252 be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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