

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Postal Rate and Fee Changes

Docket No. R2006-1

PRESIDING OFFICER'S RULING  
CONCERNING MOTIONS TO COMPEL RESPONSES TO  
INTERROGATORIES DBP/USPS-151, 157, 241-254, 268, AND 280

(September 11, 2006)

*DBP/USPS-151 and 157.* On July 25, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-151 and 157.<sup>1</sup> These interrogatories seek information concerning Saturday post office service.

**DBP/USPS-151**

- [a] Please provide me a listing of the percentage of the retail service windows that are open on Saturday countrywide as well as a separate listing broken out by District.
- [b] Please provide me a listing of the percentage of the post office box lobbies that are open on Saturday countrywide as well as a separate listing broken out by District.
- [c] Please provide the criteria that are considered for the establishment of Saturday post office lobby hours at a particular facility.
- [d] Please provide the criteria that are considered for the establishment of Saturday retail window service hours at a particular facility.

**DBP/USPS-157**

This interrogatory relates to the ability of a postal customer to claim mail for which a notice has been left, such as accountable mail, on a non-holiday Saturday at a facility that does not have retail window service available on that Saturday. If there is a different pick-up rule for a carrier customer vs. a post office box customer, please explain.

- [a] Is it mandated that this ability exist?

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<sup>1</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-151 and 157, July 25, 2006.

[b] If not mandated, is it the normal custom to provide such service?  
[c] If not, why not?

Mr Popkin asserts that both interrogatories relate to value of service. He states that similar data was provided in Docket No. R2005-1 as requested by DBP/USPS-151 and believes that it would be appropriate to provide the new data in a similar format.

Mr. Popkin further argues that the Postal Service has not objected to DBP/USPS-151 subparts c and d and thus should supply a response.

On July 26, 2006 Mr. Popkin filed a supplement to his motion which directs the Postal Service to a data file, "po-close.xls," which may help ease the burden of formulating a response to DBP/USPS-151.<sup>2</sup>

The Postal Service filed an objection to answering interrogatories DBP/USPS-151 and 157 on July 13, 2006.<sup>3</sup> It objects to answering interrogatory DBP/USPS-151(a) and (b) on the grounds of relevance and burden, stating that listings by district is information at a level of operational detail that is irrelevant and immaterial to the issues of an omnibus rate case. Additionally, the disaggregation of the information would take several days of work. The Postal Service states, however, that it would attempt to provide the percentage of retail service windows and post office box lobbies open on Saturday countrywide.

The Postal Service subsequently filed a response to DBP/USPS-151(a) and (b) stating that the requested information is not available.<sup>4</sup> The Postal Service next filed a notice stating that it will further investigate filing a response to DBP/USPS-151 based on Mr. Popkin's supplemental motion, and will make a decision to either respond to the interrogatory or the motion to compel by August 10, 2006.<sup>5</sup>

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<sup>2</sup> David B. Popkin Supplemental Motion to Compel Response to Interrogatory DBP/USPU-151, July 26, 2006.

<sup>3</sup> Objection of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-151 and 157), July 13, 2006.

<sup>4</sup> Responses of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-141-151(a)-(b), 152-156, 158-166, and 168-171, July 17, 2006.

<sup>5</sup> Notice Regarding Reply of the United States Postal Service to the Motions to Compel of David B. Popkin (DBP/USUS-151), August 2, 2006.

The Postal Service objects to answering interrogatory DBP/USPS-157 on the grounds of relevance. It contends that similar interrogatories were propounded in Docket Nos. R2000-1, R2001-1 and R2005-1. The Postal Service asserts that in Docket No. R2000-1, the Presiding Officer found a similar line of questions outside the realm of appropriate discovery and that a similar conclusion concerning relevance should be reached in this case. The Postal Service also filed a separate reply to the motion to compel a response to DBP/USPS-157 reiterating its relevance objection.<sup>6</sup>

*Ruling.* The Postal Service has not fulfilled its self-imposed obligation of either filing a response to interrogatory DBP/USPS-151 or replying to the motion to compel by August 10, 2006. The Postal Service shall do so by September 15, 2006. The motion to compel is considered moot at this time. Mr. Popkin may renew his motion to compel after review of the Postal Service's response, if appropriate.

The motion to compel a response to DBP/USPS-157 is denied. The options that may be available to a limited set of customers to claim mail on one day of the week may be interesting, but the relevance of this topic is so attenuated as to not materially add to the record.

*DBP/USPS-241 through 252.* On August 2, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-241 through 252.<sup>7</sup> These interrogatories seek information concerning change-of-address orders and general delivery service.

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<sup>6</sup> Reply in Opposition of the United States Postal Service to Motion to Compel of David B. Popkin (DPB/USPS-157), August 2, 2006.

<sup>7</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-241 through 252, August 2, 2006.

**DBP/USPS-241**

Please advise the minimum and maximum effective times for the following:

- [a] Temporary Change of Address Orders filed on or before August 2, 2006.
- [b] Temporary Change of Address Orders filed on or after August 3, 2006.
- [c] Hold Requests.

**DBP/USPS-242**

- [a] Please define 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.
- [b] Please describe the procedures that are followed from the time the mail arrives at the delivery office until the time that it is forwarded on to the new address.
- [c] Please advise the normal timeframe for the procedures described in response to subpart b to take place.
- [d] What are the service standards for the procedures described in response to subpart b to take place?
- [e] Once the mail is forwarded to the new address, please confirm, or explain if you are unable to confirm, that the Service Standards for that mail are the same as those for the same class of mail between the same points.
- [f] Please discuss any automated systems that are in place to automatically intercept mail that requires forwarding and/or endorses it with the new address and/or forwards it on to the new address.
- [g] Please advise the extent to which any systems noted in response to subpart f above have been implemented and the status and timeframe of any further implementation.

**DBP/USPS-243**

- [a] Please enumerate any time period by which a Hold Request; a Temporary Change of Address Order filed on or before August 2, 2006; a Temporary Change of Address Order filed on or after August 3, 2006; or a Permanent Change of Address Order must be filed prior to the effective date.
- [b] Please advise the time needed to process each of the requests.
- [c] Please advise what happens to mail that is received prior to the time that the request has been processed.

**DBP/USPS-244**

- [a] Once a customer has filed a Hold Request; a Temporary Change of Address Order filed on or before August 2, 2006; or a Temporary Change of Address Order filed on or after August 3, 2006; may they change either the effective date and/or the termination date?
- [b] If not, why not?
- [c] If so, please describe the methods by which it may be accomplished and which of the methods, if any, would require the payment of the \$1.00 credit card fee.
- [d] If a credit card fee is not required for a method enumerated in response to subpart c, please explain why not.
- [e] If a credit card fee is required for a method enumerated in response to subpart c, please confirm, or explain if you are unable to confirm, that it is for the same reason[s] as the original request required the fee.

**DBP/USPS-245**

With respect to the Interim Rule and Request for Comments that appeared in the July 7, 2006 Federal Register with respect to the Temporary Mail Forwarding Policy, please advise:

- [a] Why the Rule is being implemented 4 days prior to the close of public comments rather than waiting for the comment period to conclude.
- [b] For how long a time period has it been possible for a customer to have filed a Temporary Change of Address Order for a time period of less than 14 days? If that period has been 10 years or more, you may just state so.
- [c] If the response to subpart b is 10 years or more, why is it so important to implement the change so fast?
- [d] Please provide the reasons for changing the minimum effective time for a Temporary Change of Address Order from 1 day to 14 days.
- [e] Please provide the reasons for changing the maximum effective time for a Temporary Change of Address Order from 1 year to 6 months.
- [f] If one of the reasons for implementing the change for the maximum time to 6 months is to allow for a 6 month period for those temporary requests that do not show a termination date, why doesn't the rule change only apply to that and not to Temporary Change of Address Orders for which a termination date of between 6 and 12 months is provided?
- [g] Please specifically describe how this change will reduce the amount of mail that may be delivered at a temporary address after the customer has returned to his or her permanent address.

**DBP/USPS-246**

If mail is being held in response to a Hold Request,

- [a] Please explain what happens if it is not claimed by the end of the hold period.
- [b] May a customer file a Change of Address Order to forward the mail that is presently being held?

**DBP/USPS-247**

Please describe any method by which a customer who has mail which is already in his or her post office box or which is being held in General Delivery retrieve that mail remotely by either filing a written request and/or transferring it to held mail and/or filing a Change of Address Order and/or establish Premium Forwarding Service and/or any other means.

**DBP/USPS-248**

- [a] Are there any restrictions as to the resulting time periods to which the effective and/or termination dates can be changed to?
- [b] If so, please enumerate.
- [c] What happens if after August 3, 2006, a customer files a Temporary Change of Address Order for a one month period from September 1 to September 30, 2006 and on September 5 files a request to terminate that Order effective September 6, 2006?
- [d] After August 3, 2006, a customer files a Temporary Change of Address Order for a six month period. How soon after it is filed may the customer file for another six month extension?
- [e] Is a customer permitted to file a Temporary Change of Address Order effective on August 1, 2006 and terminating on Saturday, July 28, 2007?
- [f] If not, why not?
- [g] What happens if the customer described in subpart e above files another Temporary Change of Address effective on Monday, July 30, 2007, and terminating on July 7, 2008?
- [h] Would your response to subpart g above be different if the address to which the customer is forwarding the mail to is different?
- [i] Please explain and provide the regulatory authority for the responses to subparts g and h above.

**DBP/USPS-249**

Please advise the time frames that are observed when a customer files a Permanent Change of Address?

**DBP/USPS-250**

A customer files a Permanent Change of Address Order effective on September 1, 2006 for a move from Address A to Address B.

- [a] What happens if on November 1, 2006, the customer moves from Address B to Address C. Is he or she able to file a Change of Address Order to cover this move?
- [b] If not, why not?
- [c] If he or she able to modify and/or cancel and reinstate the order existing at Address A so that the mail addressed to Address A can be forwarded directly to Address C rather than doing it in two separate steps - A to B and then B to C?
- [d] If not why not?
- [e] What happens if on November 1, 2006, the customer moves back to Address A with respect to their ability to receive mail at that address?

**DBP/USPS-251**

Assume that a customer "snowbirds" between New Jersey and Florida spending the summers in New Jersey and the winters in Florida and files a Temporary Change of Address with each move to cover each of the residence periods. Suppose that on one of these moves between Florida and New Jersey, the customer inadvertently checks the Permanent box rather than the Temporary box on the Change of Address Order.

- [a] Will this interfere with their ability in the future to receive mail at the address at which they are residing as well as having mail addressed to the other address forwarded to their current residence address?
- [b] If so, please explain what will happen and the regulatory authority for that action.
- [c] If so, how does the customer fix the problem?
- [d] If data is "in the system" which would preclude filing new Temporary Change of Address Orders, how long will it remain "in the system"?

**DBP/USPS-252**

Assume that a customer receives mail addressed to them at General Delivery at a specific post office.

- [a] Suppose that the post office chosen has more than one facility [station or branch]. May the mail be addressed to and called for at any specific station or branch?
- [b] If not, why not and how will the customer be aware of the specific station or branch that provides the service?
- [c] Is the post office required to hold all mail received for a specific customer for a maximum of 30 days before returning it to the sender?
- [d] If not, please explain the restriction.

- [e] Please confirm, or explain and provide regulatory authority if you are unable to confirm, that a customer may continue to utilize General Delivery for an indefinite period of time so long as all mailpieces are claimed within a 30-day period.
- [f] Is there any change in the requirements in permissible use of General Delivery service and or the time by which mail must be claimed if the customer is “forced” to utilize General Delivery because of the unavailability of Post Office Box service?
- [g] If so, please explain.

Mr. Popkin states that these interrogatories are relevant based on the Commission’s indication in PRC Op. R2005-1, fn. 72, that the \$1 credit card fee for internet or phone change-of-address orders may be an issue in the next omnibus rate case. He argues that because Docket No. R2006-1 is the next omnibus rate case, this is the time to conduct discovery on the propriety of the \$1 charge and the various criteria related to the change-of-address program.

The Postal Service filed an objection to answering these interrogatories on July 20, 2006, and a reply to the motion to compel on August 9, 2006.<sup>8</sup> The Postal Service articulates lengthy and detailed objections to each interrogatory. It notes that the interrogatories stem from an interim rule and request for comments on temporary mail forwarding policy published in the *Federal Register* on July 7, 2006. In summary, the Postal Service contends that the interrogatories are not relevant to the instant rate proceeding. Furthermore, except for DBP/USPS-244, none of the interrogatories have any connection to the \$1 credit card fee.

*Ruling.* The Postal Service has explained its position concerning the institution of a \$1 credit card fee in its response to DBP/USPS-19. While the \$1 fee could be relevant to this rate case, Mr. Popkin provides no explanation of how responses to interrogatories DPB/USPS-241-251 would materially add to an understanding of the \$1 credit card fee beyond what has already been provided.

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<sup>8</sup> Objections of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-241-252), July 20, 2006; Reply of United States Postal Service to Motion of David Popkin to Compel Responses to Interrogatories (DBP/USPS-241-252), August 9, 2006.

Interrogatory DPB/USPS-252 seeks information about the operation of general delivery service. Mr. Popkin does not provide any persuasive argument relating this interrogatory to the relevant issues of this rate case, given that the Postal Service does not propose any changes to general delivery service, nor are any rates or classifications directly associated with this service.

The motion to compel responses to DPB/USPS 241-252 is denied.

*DBP/USPS-253 and 254.* On August 2, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-253 and 254.<sup>9</sup> These interrogatories seek information concerning First-Class Mail service standards.

**DBP/USPS-253**

Please provide your best estimate of the percentage of processing facilities that provide overnight First-Class Mail service standards to all of the SCF or 3-digit ZIP Code destinations that have a transit time of three hours or less dock-to-dock and receive 1.5% or more of the originating volume of the facility.

**DBP/USPS-254**

- [a] Please discuss why the “line” between First-Class Mail overnight and 2-day service is not complied with to the same extent as the “line” between 2-day and 3-day service standards is complied with.
- [b] Please discuss any plans to improve the level of compliance for the overnight/2-day line.

Mr. Popkin states that the objective of these interrogatories is to evaluate the value of service of First-Class Mail. He states that he is attempting to determine the degree to which the Postal Service complies with its own delivery standards guidelines, and the extent to which improvement in compliance will affect costs.

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<sup>9</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-253 and 254, August 2, 2006.

The Postal Service filed an objection to answering these interrogatories on July 20, 2006, and a reply to the motion to compel on August 9, 2006.<sup>10</sup> It contends that the questions do not seek information relevant to First-Class Mail costs or rates. The Postal Service asserts that the interrogatories are similar to interrogatories asked in Docket No. N2006-1/21, which also were the subject of a motion to compel. As in Docket No. N2006-1/21, the Postal Service states that it would take exhaustive analysis to formulate a response, and that it should not be saddled with so onerous a burden to determine compliance with “discretionary” standards. The Docket No. N2006-1/21 presiding officer concluded that the interrogatories would not lead to admissible evidence and denied Mr. Popkin’s motion. See Presiding Officer’s Ruling No. N2006-1/21, July 7, 2006.

*Ruling.* The Postal Service’s service standards and its ability to meet its service standards appear to be relevant to an understanding of First-Class Mail service. Mr. Popkin requests an “estimate” of compliance. Providing a response should not be a burdensome task. The Postal Service shall provide its best estimate, along with a general qualitative description of the confidence it has in its estimate (this could include a discussion of why no estimate can be made, if that is the case).

Interrogatory DBP/USPS-254 appears to pose an appropriate question that may provide insight into First-Class Mail service. The Postal Service may not be able to provide a response to DBP/USPS-254 (a) if the Postal Service does not have the necessary information to respond to DBP/USPS-253. If this is the case, the Postal Service may state this as its response.

*DBP/USPS-268.* On August 7, 2006, David B. Popkin filed a motion to compel a response to interrogatory DBP/USPS-268.<sup>11</sup> This interrogatory seeks information from the EXFC system.

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<sup>10</sup> Objections of the United States Postal Service to Interrogatories of David Popkin (DBP/USPS-253 and 254), July 20, 2006; Reply of the United States Postal Service to Motion of David Popkin Seeking to Compel Responses to Interrogatories (DPB/USPS-253 and 254), August 9, 2006.

<sup>11</sup> David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-268, August 7, 2006.

**DBP/USPS-268**

Please furnish the most recent First-Class Mail EXFC results for a minimum of four quarterly reports. The left side of the charts should show the Nation followed by each of the 80-some EXFC reporting areas and along the top of the chart showing Percent on Time / Margin of Error / Average Days to Deliver / Margin of Error for the following four categories: Overnight Mail / Two-Day Mail / Three-Day Mail / Nation. Please show all entries to two decimal places.

Mr. Popkin states that this data has been provided by the Postal Service in the specified format for many years, and that it relates to the value of First-Class Mail service.

The Postal Service filed an objection to answering this interrogatory on July 24, 2006, and a reply to the motion to compel on August 14, 2006.<sup>12</sup> While stating that EXFC data at the system-wide level are relevant to the issues of value of service, it contends the requested data are irrelevant to the issues presented in this rate case. The Postal Service recognizes Presiding Officer's Ruling No. R2005-1/10, filed May 16, 2005, previously allowed a response to a similar interrogatory. The Postal Service submits that regional variations in data do not significantly impact the value of First-Class Mail service.

*Ruling.* There is no representation that the requested data is not available, it has been provided in the past, and EXFC data is relevant to the value of First-Class Mail service. Intervenors should be allowed to view the data and draw their own conclusions as to significance. Therefore, the motion to compel a response to DBP/USPS-268 is granted.

*DBP/USPS-280.* On August 7, 2006, David B. Popkin filed a motion to compel a response to interrogatory DBP/USPS-280.<sup>13</sup> This interrogatory concerns Post Office-to-Post Office Express Mail.

**DBP/USPS-280**

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<sup>12</sup> Objection of the United States Postal Service to David B. Popkin Interrogatory to the United States Postal Service (DBP/USPS-268), July 24, 2006; Opposition of the United States Postal Service to David B. Popkin Motion to Compel Response to Interrogatory (DBP/USPS-268), August 14, 2006.

<sup>13</sup> David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-280, August 7, 2006.

Please refer to your response to Interrogatory DBP/USPS-135.

- [a] Please confirm, or explain if you are unable to confirm, that Post Office-to-Post Office Express Mail is an established service.
- [b] Please explain how there could not be market demand for the addition of additional claim locations.
- [c] What “harm” would occur if the service was expanded to additional claim locations since the Express Mail transportation system is already in place and it can only serve to increase the volume and revenue.

Mr. Popkin asserts that this interrogatory relates to the level of service, the value of service, and thus the mark-up of Post Office-to-Post Office Express Mail.

The Postal Service filed an objection to answering this interrogatory on July 24, 2006, and a reply to the motion to compel on August 14, 2006.<sup>14</sup> The Postal Service asserts that this interrogatory has no material relevance as to the recommendation of Post Office-to-Post Office Express Mail rates in this rate case. It contends that the relevance of “value of service” (§ 3622(b)(2)) in this rate case is the value of service actually provided. This interrogatory does not relate to the level of service actually provided, but instead relates to why that level of service is not different.

*Ruling.* In response to DBP/USPS-135, the postal service stated: “While the Postal Service is unaware of any discussions to-date about expanding the availability of PO-PO Express Mail service, it may in the future explore options in expanding the number of available destinations for such mail based on considerations such as market demand.” Thus, the Postal Service has clearly stated its position concerning future enhancements to Post Office-to-Post Office Express Mail service. Interrogatory DBP/USPS-280 does not materially add to any understanding of Post Office-to-Post Office Express Mail service as it exists for the purposes of this rate case, nor would a response lead to admissible evidence given that the Postal Service asserts it is not aware of any discussions about expanding the availability of the service. The motion to compel a response to DBP/USPS-280 is denied.

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<sup>14</sup> Objection of the United States Postal Service to Interrogatory of David B. Popkin (DBP/USPS-280), July 24, 2006; Opposition of the United States Postal Service to David B. Popkin Motion to Compel Response to Interrogatory (DPB/USPS-280), August 14, 2006.

## RULING

1. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-151 and 157, filed July 25, 2006, is moot in regard to DBP/USPS-151 and is denied in regard to DBP/USPS-157. The Postal Service shall provide an additional response related to DBP/USPS-151 as indicated in the body of this Ruling by September 15, 2006.
2. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-241 through 252, filed August 2, 2006, is denied.
3. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-253 and 254, filed August 2, 2006, is granted consistent with the body of this Ruling. Responses shall be filed by September 15, 2006.
4. The David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-268, filed August 7, 2006, is granted. The response shall be filed by September 15, 2006.
5. The David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-280, filed August 7, 2006, is denied.

George Omas  
Presiding Officer