

DOCKET SECTION

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

RECEIVED

DEC 1 5 01 PM '97

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

OPPOSITION OF UNITED STATES POSTAL SERVICE TO
DAVID B. POPKIN'S MOTION TO COMPEL RESPONSES
TO DBP/USPS INTERROGATORIES
(DBP/USPS-33(G)-(I) AND 88)
(December 1, 1997)

The United States Postal Service hereby opposes the motion of David B. Popkin to compel responses to interrogatories DBP/USPS-33 and 88, filed on November 24, 1997. A response to Mr. Popkin's motion to compel with respect to the other interrogatories he mentions involves interrogatories assigned to attorneys other than the undersigned, or responses filed by witnesses other than witnesses Needham and Plunkett, and are expected to be addressed in separate documents.

Postal Service witness Plunkett responded to interrogatory DBP/USPS-33, parts f through i, on November 10, 1997. Mr. Popkin claims that witness Plunkett's response to part g does not explain why the use of the red validating stamps on return receipts was terminated, and that, moreover, the response does not respond to Mr. Popkin's questions in parts h and i concerning the authenticity and correctness of the information provided using the red validating stamp. In fact, witness Plunkett's response attached the Postal Bulletin article indicating that the use of the red validating stamp might not indicate the date of delivery of the piece for which the customer requested a return receipt. The response also referred to witness Larson's responses to Mr. Popkin's Docket No. R87-1 and R90-1 interrogatories, which were

most recently provided to Mr. Popkin with the rest of library reference SSR-137 during Docket No. MC96–3.¹ In Docket No. R87–1, witness Larson stated:

The red postmarks were eliminated because they did not provide evidence of the date of delivery. Instead, they indicate the date of postmarking the return receipt. It is conceivable that a piece could be hand dated one date by the addressee or delivering employee and be postmarked another date at the post office. That circumstance would result in confusion and no real proof of a delivery date.

LR-SSR-137 at 4. Contrary to Mr. Popkin's assertion, therefore, Mr. Plunkett has been fully responsive to Mr. Popkin's interrogatory DBP/USPS-33, parts (g)-(i).

With respect to interrogatory DBP/USPS-88, Mr. Popkin claims that if a statement that was made in testimony is repeated in response to discovery, then that statement is reopened to full discovery, even well after the close of discovery on the Postal Service's direct testimony. In the instant case, witness Plunkett responded to Mr. Popkin's interrogatory concerning his dissatisfaction with having to request a duplicate return receipt to receive what he claims he was supposed to receive on the initial return receipt. Witness Plunkett explained why customers may not receive less value than they expect in such circumstances. Then, as a supplemental point, he reiterated the view expressed in his testimony that the increasing volume of return receipt service indicates that customers value the service. Mr. Popkin seeks to use

¹ Given his substantial involvement, including detailed discovery, in rate cases, Mr. Popkin should bear some responsibility for maintaining a file of rate case materials relevant to his inquiries. Reference by the Postal Service to previous dockets is reasonable, especially with respect to responses to Mr. Popkin's own discovery. In this regard, Presiding Officer's Ruling No. R97-1/53, at 6, stated that the Postal Service "can provide the information it has or direct Mr. Popkin to the information." The Postal Service provided some new information, including a copy of the relevant Postal Bulletin article, in its response, and directed Mr. Popkin to other responsive information that has been provided to him more than once in previous dockets.

this supplemental comment to ask a series of complicated questions. If such follow-up is permitted, then discovery will simply expand every time a witness responds fully to interrogatories. Concerns about excessive follow-up would have a chilling effect on the candor with which witnesses respond to questions.

Moreover, the detailed questions in interrogatory DBP/USPS-88 go beyond reasonable follow-up on Mr. Plunkett's statement. For example, parts c and d ask whether there is a copy of a breakdown of Certified Mail - Return Receipt letters by weight, and, if so, to provide a copy. Part k asks what percentage and how many of the Consumer Service Cards and other correspondence received from the public relate to problems associated with return receipt service.²

Finally, Mr. Popkin asks, in the alternative, that the Presiding Officer accept the questions in interrogatory DBP/USPS-88 as a late filing of discovery, presumably on Mr. Plunkett's direct testimony. Such discovery, filed over 6 weeks after the deadline for discovery on the Postal Service's direct testimony, is simply too late to be accepted at this time.

² The Postal Service notes that it provided the number of problems reported on Consumer Service Cards regarding return receipts for 1995 through 1997 in its response to interrogatory DFC/USPS-17, filed November 26, 1997.

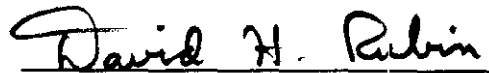
For all these reasons, Mr. Popkin's Motion to compel responses to interrogatories DBP/USPS-33 and 88 should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

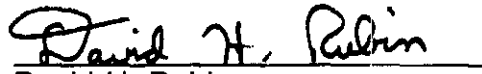
By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking


David H. Rubin

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 H. Rubin

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2986; Fax -5402
December 1, 1997