

PRESIDING OFFICER'S
RULING NO. N2009-1/2

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

Station and Branch Optimization and
Consolidation Initiative, 2009

Docket No. N2009-1

PRESIDING OFFICER'S RULING
CONCERNING MOTION TO COMPEL RESPONSES
TO INTERROGATORIES DBP/USPS-6, 9, 10, 28 AND 29

(Issued September 1, 2009)

On August 6, 2009, David B. Popkin (Popkin) filed a motion to compel requesting that the Postal Service be directed to provide responses to interrogatories DBP/USPS-6, 9, 10, 28 and 29.¹ The interrogatories are part of a set of interrogatories, DBP/USPS-1-29, filed with the Commission on July 13, 2009.²

The Postal Service filed objections to these, and other, interrogatories on July 23, 2009,³ and an opposition to the Motion to Compel on August 14, 2009.⁴

The Motion to Compel is granted with respect to interrogatories DBP/USPS-9, 10, 28 and 29 and is denied with respect to interrogatory DBP/USPS-6.

¹ David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-6, 9-10, 28-29, August 6, 2009 (Motion to Compel).

² Interrogatories of David B. Popkin to the United States Postal Service [DBP/USPS-1 through 29], July 13, 2009.

³ Objections of the United States Postal Service to Popkin Interrogatories DBP/USPS-6, 9-10, 15, 28-29, July 23, 2009 (Objection).

⁴ Opposition of the United States Postal Service to Popkin Motion to Compel Response to Interrogatories DBP/USPS-6, 9-10, 28-29, August 14, 2009 (Opposition). The Opposition was accompanied by Motion of the United States Postal Service for Late Acceptance of the Filing of Its Opposition to Motion to Compel Responses to David Popkin Interrogatories (DBP/USPS-6, 9, 28 and 29), August 14, 2009. This motion is granted.

Interrogatory DBP/USPS-6

Interrogatory DBP/USPS-6 seeks information regarding a specific program to consolidate Bulk Mail Entry Unit (BMEU) functions within Delaware, New Jersey and Florida.

DBP/USPS-6 Please confirm, or explain if you are unable to confirm, that there is a program implemented or proposed to be implemented in part or all of Delaware, New Jersey, and Florida to consolidate the functions of a BMEU to a limited number of facilities. Please provide details of these consolidations including the results of the program and plans to reverse or expand the program.

Popkin contends that “any of the functions that are affected by the consolidations contemplated in the current Docket are relevant.” Motion to Compel at 2. He further argues that “the Postal Service should not be allowed to ‘back into’ a substantially nationwide change in the method of accepting bulk mail.” *Id.* at 1-2.

The Postal Service states that “adjustments in BMEU functions are a routine management function initiated and implemented at the local level without involvement by Headquarters or as part of any centrally-directed initiative.” Objection at 2. The purported program is not part of the Station and Brand Optimization and Consolidation Initiative (Initiative), and therefore, is outside the scope of this docket. *Id.*

When analyzing a motion to compel a response to an interrogatory, the interrogatory is initially evaluated against a standard of whether or not the interrogatory “appears reasonably calculated to lead to the discovery of admissible evidence” relevant to the subject matter of the proceeding. 39 CFR 3001.26(a).

The Postal Service correctly observes that it is appropriate to inquire about the nature of BMEU closures that could result from the discontinuance or consolidation of targeted stations or branches. Opposition at 2. Accordingly, the Postal Service provided responses to interrogatories DBP/USPS-5 and 7 related to BMEUs. However, the interrogatory in question seeks information about an independent, limited-application program that is not caused by or does not flow from the Initiative under consideration in this docket. This interrogatory does not appear reasonably calculated

to lead to the discovery of admissible evidence relevant to this docket. The Motion to Compel with respect to DBP/USPS-6 is denied.

Interrogatory DBP/USPS-9

Interrogatory DBP/USPS-9 asks the Postal Service to provide a list of the number of post offices and stations which report to each level of Postmaster.

DBP/USPS-9 For each level of the Postmaster, please provide a listing of the breakdown of the number of post offices and number of subordinate stations and branches in that level.

Popkin argues that this interrogatory will shed light on the Postal Service's decision to use stations and branches that report to a level 24 Postmaster as a cutoff point for consideration of closure. He contends that this is a critical part of this docket. Motion to Compel at 2.

The Postal Service argues that having selected stations and branches that report to a level 24 Postmaster as a cutoff, "it is the Commission's role to advise whether it considers those changes to conform to the policies of title 39, U.S.C. Thus, it is immaterial to the Commission's exercise of its responsibilities in this docket how many stations and branches report, for example, to EAS-22 or EAS-21 or EAS-20 Postmasters, or why one level and not another." Opposition at 4.

The Postal Service has notified the Commission that "[e]xperience with this initial focus will inform any decision whether to continue or expand the Initiative to include a broader pool of stations and branches."⁵ Because of the potential for expanding this Initiative, it is reasonable and relevant to inquire about the characteristics of the pools that the Postal Service may select for consideration. The Postal Service is forming these pools based on Postmaster grade level. The similarities or differences of the various pools may influence the advice that the Commission offers the Postal Service, including the potential to tailor its Initiative to the specific characteristics of individual

⁵ Request of the United States Postal Service for an Advisory Opinion on Changes in Postal Services, July 2, 2009, at 6.

pools. If the specific numbers of stations and branches reporting to each level of Postmaster are not readily available, the Postal Service may answer this interrogatory by providing the average number of classified stations and branches that report to an EAS-24 level Postmaster and to an EAS-23 level Postmaster. This will provide information to further distinguish an EAS-24 level pool from the next lower level pool. The Motion to Compel with respect to interrogatory DBP/USPS-9 is granted consistent with the discussion appearing above.

Interrogatory DBP/USPS-10

Interrogatory DBP/USPS-10 asks the Postal Service how the level of Postmaster is determined and what factors are used to rank post offices at level 24 or higher.

DBP/USPS-10 Please describe in detail how the level of the Postmaster is determined including the specifics of the values that go into ranking a post office at Level 24 or higher.

Popkin contends that how the Postal Service determines the level of Postmaster is relevant to this docket. Motion to Compel at 2.

The Postal Service argues that questions about how each Postmaster's pay grade is determined are irrelevant in that they have no bearing on whether the service changes that result from the Initiative would be substantially nationwide in scope, or the changes would comply with the policies of title 39. Opposition at 4; Objection at 3-4.

The Postal Service chose to categorize the potential pools of stations and branches based on Postmaster level. The characteristics of what constitutes an EAS-24 level Postmaster from the perspective of geographic location (urban, suburban, rural), population or density of population, revenue, number of employees, number of subordinate stations and branches under jurisdiction, etc., appear relevant to the makeup of the potential station and branch pools. For comparison purposes and because of the potential to expand this Initiative to lower EAS levels, a similar description for the next lower Postmaster pay grade also may be helpful and should be provided in the response to this interrogatory. This information will provide relevant

insight into the characteristics of the stations and branches that may be affected by this Initiative now and in the future. Information from the perspective of the Postmaster, such as the qualifications for a Postmaster to be appointed to a certain grade level, or the Postmaster's day-to-day duties unrelated to this initiative, do not appear relevant at this time and do not have to be provided. The Motion to Compel with respect to interrogatory DBP/USPS-10 is granted consistent with the discussion appearing above.

Interrogatories DBP/USPS-28 and 29

Interrogatories DBP/USPS-28 and 29 seek information about service standards and processing of mail picked up by carriers along their routes.

DBP/USPS-28 Please confirm, or explain if you are unable to confirm, that all outgoing mail which a carrier collects while delivering mail along their route or which an employee picks-up in response to a request for a pick-up will be processed and dispatched to the Processing Center on the same day, including Saturday, that it is collected or picked-up from the customer and will receive the same delivery standards for that day being Day 0. If necessary, make any distinctions based on the type of mail or type of carrier.

DBP/USPS-29 With respect to Express Mail which a carrier collects while delivering mail along their route or which an employee picks-up in response to a request for a pick-up, please advise whether the time of receipt for purposes of determining the guaranteed delivery date and time will be the time the mail is turned over to the carrier or the time it is processed when the carrier returns to the office.

Popkin argues that due to station and branch closings, the volume of mail inducted into the system through carrier pickup will increase. Motion to Compel at 2-3. This infers that the conditions under which carrier pickup service will be provided may change, and thus the interrogatories are relevant.

The Postal Service argues that customers currently have the choice of giving their outgoing mail to a carrier and that the Initiative will not change that option. Furthermore, the policies and practices concerning processing and dispatch of mail collected by carriers on their delivery routes are unaffected by whether any stations

and/or branches are discontinued. The Postal Service also contends that these questions have already been asked and answered in other dockets and in other forums. Objection at 5-6; Opposition at 5-6.

Postal Service witness VanGorder (USPS-T-1) devotes a significant portion of her testimony explaining available alternative access channels, including carrier pickup service. The implication is that these alternative access channels may help mitigate the inconvenience of a loss of a local station or branch to customers. Thus, the ability of carrier pickup service to substitute for the service received at a station or branch appears relevant to assess the impact of station and branch closings. The Postal Service actually starts to answer this question in its Objection and Opposition although it would have been more helpful to make these statements in responses to the interrogatories so that this information might become part of the record. A part of the response might be to provide a comparison of the specific level of service offered by stations and branches versus the specific level of service offered carriers. This would provide a more complete answer. The assertion that these questions may have been asked and answered in another docket or in another forum as justification for not providing a response does nothing to develop the record in the instant docket.

Interrogatories DBP/USPS-28 and DBP/USPS-29 appear to be reasonably calculated to produce admissible evidence relevant to this docket. The Motion to Compel with respect to interrogatories DBP/USPS-28 and DBP/USPS-29 is granted.

RULING

1. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-6, 9-10 and 28-29, filed August 6, 2009, is granted with respect to interrogatories DBP/USPS 9, 10, 28 and 29 and denied with respect to interrogatory DBP/USPS-6.

2. The Motion of the United States Postal Service for Late Acceptance of the Filing of its Opposition to Motion to Compel Responses to David Popkin Interrogatories (DBP/USPS-6, 9, 10, 28 and 29), filed August 14, 2009, is granted.

Ruth Y. Goldway
Presiding Officer