

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

RETAIL ACCESS OPTIMIZATION
INITIATIVE, 2011

DOCKET NO. N2011-1

DAVID B. POPKIN MOTION

September 9, 2011

Respectfully submitted,

N20111MOTION7

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On August 19, 2011, I filed Interrogatories DBP/USPS-50 through DBP/USPS-53. A response was due seven days later on August 26, 2011.

The Postal Service did not respond to these Interrogatories until September 6, 2011, which was eleven days after they were due to be filed.

In addition to the responses which were filed on September 6, 2011, the Postal Service also filed the same day a Motion for late acceptance of the responses. In this Motion, the Postal Service stated the error was inadvertent and should generate little to no prejudice to any party.

Discovery in the Docket was required to be completed by August 30, 2011.

A response to an Interrogatory can result in two separate and distinct types of follow-up reaction. The first of these would be one which would qualify as a legitimate follow-up Interrogatory under the Commission's Rules and therefore would allow for the ability to file a follow-up Interrogatory within seven days of the filing.

The second of these would be items that were sparked by the response but which would not directly qualify as a legitimate follow-up Interrogatory. Since the deadline for

discovery has passed, it would not be possible to file new Interrogatories. This would prejudice the participant because of the failure of the Postal Service to file their responses on time.

It should also be noted that the Postal Service's response to Interrogatory APWU/USPS-T1-11 subpart [a] filed on September 2, 2011, made reference to Interrogatory DBP/USPS-51 even though it was not filed until four days later.

While many of the late responses to discovery probably cause little or no prejudice to the parties, those delays which straddle another deadline or activity can result in prejudicial action to the parties.

Another example in this Docket is Interrogatory DBP/USPS 62 which was filed on August 30, 2011, to which a response was due to be filed by September 6, 2011. A response has yet to be filed. The hearing was conducted on September 8, 2011, but since a response had not been timely made, it was not possible to cross examine the Postal Service's witness.