

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

POSTAL RATE AND FEE CHANGES, 2006

Docket No. R2006-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE  
TO DAVID B. POPKIN MOTION TO COMPEL RESPONSE  
TO INTERROGATORY DBP/USPS-280  
(August 14, 2006)

In accordance with Rule 26(d) of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby responds in opposition to the David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-280, filed on August 7, 2006. For the reasons presented herein, the Postal Service respectfully requests that Mr. Popkin's motion be denied.

The interrogatory at issue reads as follows:

**DBP/USPS-280.** 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.

The Postal Service objected to this interrogatory on the grounds of relevance, stating that the questions posed have no material relevance to the recommendation of PO-PO Express Mail rates in this proceeding. In his Motion to Compel, Mr. Popkin argues that this interrogatory is relevant to this proceeding

because it relates to the “value of service” of PO-PO Express Mail, within the meaning of 39 U.S.C. § 3622(b)(2).

Mr. Popkin’s attempt to justify this interrogatory on the basis that it relates to the “value of service” of PO-PO Express Mail within the meaning of § 3622(b)(2) ignores the plain language of that pricing criterion. As § 3622(b)(2) indicates, the “value of service” of a postal service that is relevant to this proceeding is the “value of service *actually provided* each class or type of mail service....”<sup>1</sup> Therefore, the application of this factor in a rate case requires that current service levels be taken as a given, with a determination by the Commission as to whether the given relative service levels suggest higher or lower recommended rates for particular subclasses or services. As such, what is relevant to “the value of service” of a type of mail service are questions that seek, at a level of detail appropriate to the fact that this is a proceeding that establishes rates at a nationwide level,<sup>2</sup> details as to the *actual* level of service provided by that service.

The questions posed in this interrogatory in no way relate to the actual level of service provided by PO-PO Express Mail, but instead relate to why that level of service is not different (specifically, why PO-PO Express Mail is not

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<sup>1</sup> Emphasis added.

<sup>2</sup> While as a general matter the actual level of service provided to a type of mail service is relevant to this proceeding, Presiding Officer’s Rulings clearly establish that there is a limit to which the operational details of a service are relevant. See, e.g., POR No. R2005-1/19 at 3 (stating that “a rule of reason limits the extent to which operational details are appropriate for exploration in discovery”); POR No. R2001-1/32 at 4 (stating that the Postal Service is not required to delve into “operational minutiae” concerning a service); POR No. R2000-1/56 at 2, 11 (noting that the Postal Service need not respond to interrogatories that sought “highly specific” details about Express Mail).

available to more destinations). In his Motion, Mr. Popkin argues that the Postal Service should be compelled to answer this interrogatory because “the extent to which the Postal Service can *improve*[ ] the service being provided by Express Mail, particularly when it can be accomplished at no cost[,] will only serve to increase the revenue and *improve* the Postal Service[‘]s position.”<sup>3</sup> Whether PO-PO Express Mail service can be “improved” by increasing the number of available destinations at which such mail can be claimed has, however, no relation to the *actual* level of service provided by PO-PO Express Mail. As such, this interrogatory cannot be justified as relating to the “value of service” of PO-PO Express Mail, within the meaning of § 3622(b)(2).

In addition, even if this interrogatory could somehow be viewed as relating to the actual level of service provided by PO-PO Express Mail, any response would still not make a material contribution to the record. With this interrogatory, Mr. Popkin is essentially trying to argue with the Postal Service as to why it has not chosen to make PO-PO Express Mail available to as many destinations as he apparently believes it should be. How this topic is relevant to ratemaking is not at all apparent, notwithstanding Mr. Popkin’s rote recitation that this interrogatory is relevant to PO-PO Express Mail’s “value of service.” The Postal Service has already provided Mr. Popkin with a list of the available destinations for PO-PO Express Mail,<sup>4</sup> and has discussed the general factors that could lead to inclusion on that list,<sup>5</sup> in addition to responding to numerous other interrogatories

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<sup>3</sup> Popkin Motion at 2 (emphases added).

<sup>4</sup> See Docket No. R2006-1, Response of the Postal Service to DBP/USPS-138.

<sup>5</sup> See Docket No. R2006-1, Response of the Postal Service to DBP/USPS-135.

concerning PO-PO Express Mail service.<sup>6</sup> To the extent that Mr. Popkin wishes to argue on brief that the number of claim locations for PO-PO Express Mail is so deficient that the rates recommended for that service should somehow be affected, he has more than enough information in which to do so. Further discussion of PO-PO Express Mail along the lines inquired about by Mr. Popkin here would, on the other hand, simply add nothing material to the record, and Mr. Popkin does not, in his Motion to Compel's seven lines of argument, make a serious attempt to argue otherwise.

Therefore, the Postal Service requests that the Presiding Officer deny Mr. Popkin's motion to compel.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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<sup>6</sup> See Docket No. R2006-1, Responses of the Postal Service to DBP/USPS-99, DBP/USPS-125, DBP/USPS-126, DBP/USPS-127, DBP/USPS-128, DBP/USPS-129, DBP/USPS-130, DBP/USPS-131, DBP/USPS-133, DBP/USPS-136, DBP/USPS-137, DBP/USPS-277, DBP/USPS-281, and DBP/USPS-282.