

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268B0001

POSTAL RATE AND FEE CHANGES, 2006

Docket No. R2006-1

REPLY OF THE UNITED STATES POSTAL SERVICE TO  
MOTION OF DAVID POPKIN TO COMPEL  
RESPONSES TO INTERROGATORIES DBP/USPS-520, 521 and 534  
(September 13, 2006)

Interrogatories DBP/USPS-520, 521 and 534 were filed by Mr. Popkin on August 14, 2006. The Postal Service filed its objections to these interrogatories on August 24, 2006, citing grounds of relevance, materiality, and, because the period for new discovery had ended, on the grounds that they do not constitute proper follow up.<sup>1</sup> On September 6, 2006, Mr. Popkin moved to compel responses to these interrogatories.

The interrogatories state:

**DBP/USPS-520.** Please refer to your response to Interrogatory DBP/USPS-409.

- [a] Please explain why the EXFC performance for cards and flats is significantly lower than that for letter-size mailpieces in all three categories [Overnight and 2- and 3-day].
- [b] Please advise the steps that are being taken to improve this performance.

**DBP/USPS-521.** Please refer to your response to Interrogatory DBP/USPS-379 subpart b.

- [a] Please explain why you believe that post office boxholders should be concerned that the construction of their post office box might not provide sufficient security for their mail.
- [b] Please advise the steps that are being taken to improve the security provided to post office box construction.

**DBP/USPS-534.** Please refer to your response to Interrogatory DBP/USPS-403. Your response provided a listing of some 469 3-digit ZIP Code prefixes that are not part of the EXFC program. This is slightly more than one-half of all of the 3-digit ZIP Code prefixes [since there are 463 3-digit ZIP Code prefixes that are part of the EXFC program.

- [a] Please confirm that with this breakdown of areas the mail volume does meet the geographic and volume density from which 90% of First-Class

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<sup>1</sup> The Objection contains a typographical error on the third line of page 2 where it refers to "interrogatory DBP/USPS-520" as not having provided new information regarding patterns of EXFC performance for letters and cards. The intended reference was to the interrogatory response identified in the body of DBP/USPS-520: the response to interrogatory DBP/USPS-409 – which is also identified later in the same paragraph. The Motion to Compel reflects recognition of the correct reference.

- volume originates and 80% destinates.
- [b] Please provide the raw data that will confirm that the 90% and 80% values referenced above are complied with.
- [c] Please indicate why the 463 prefixes have been chosen to be part of the program and/or why the 469 prefixes were not chosen to be part of the program.

In interrogatory DBP/USPS-520, Mr. Popkin seeks subtle details about differences of several percentage points in EXFC scores for flats, cards, and letters. Those details have no bearing on the issues in this docket. EXFC scores can be cited in a discussion of the value of service for First-Class Mail; but in this docket the value of service that is relevant inheres at the subclass level, and the flat, card and letter shapes are all in the same subclass.

In the Motion to Compel, Mr. Popkin concocts an argument about the supposed obsolescence of the data provided in response to DBP/USPS-48: “[T]here was little doubt in my mind that the performance data in the chart was obsolete and needed to be updated.” Motion at 2. Some reasonable minds would question how Mr. Popkin could be certain that the pattern has changed; other reasonable minds might wonder why Mr. Popkin bothers to ask if he already knows the answer. In this instance, the facts show that Mr. Popkin’s assertion of certain obsolescence is contradicted by information he has previously requested and been provided (see next paragraph). As such, Mr. Popkin’s claim of obsolescence is worse than disingenuous. Indeed, since Mr. Popkin posed a question similar to DBP/USPS-520 in Docket No. R2005-1,<sup>2</sup> his claim that he could only ask DBP/USPS-520 after getting a response to DBP/USPS-409 belies reality.<sup>3</sup>

In Docket No. R2005-1, Mr. Popkin was provided a response to DBP/USPS-8(g) on June 2, 2005, which provided EXFC results showing that scores for letters were better than

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<sup>2</sup> Interrogatory DBP/USPS-130/R2005-1 and its response (June 20, 2005) state:

**DBP/USPS-130**

Please refer to your response to DBP/USPS-8 subpart g. [a] Please advise why in general cards seem to have a lower EXFC score than letters and that flats seem to have a lower EXFC score than both letters and cards. [b] Please describe the steps taken to improve the EXFC scores of all three shapes of mail and in particular cards and flats.

**RESPONSE:**

The data would suggest that the Postal Service is able to process and deliver letters more efficiently than cards and flats. Recent and current EXFC score differentials between letters and cards are not very significant and do not currently trigger any plans on the part of the Postal Service to devote extraordinary mail processing attention to efforts designed to result in improved Card processing and delivery. Relative to letters automation, flats automation is a recent technological development. Although it might never be as extensively deployed as for letters, flats automation is expected to result in speedier and more efficient sortation and delivery of flats over time.

<sup>3</sup> Should Mr. Popkin participate in future rate cases, a special rule requiring him to identify closely related interrogatories he has previously posed might cut down on the effort required to satisfy his personal curiosity, while helping to improve the consistency of Postal Service responses.

scores for cards, which in turn were better than those for flats. The same pattern was evident in the revised response to DBP/USPS-8(g) filed on June 15, 2005. The same pattern was also evident in the response to DBP/USPS-129 (July 18, 2005), which provided data for 2002 - 2004.

Since the facts demonstrate that Mr. Popkin could readily have asked his question before the close of discovery, and since he did not need to see the response to DBP/USPS-409 to know what pattern is exhibited by EXFC results for letters, cards and flats, and because these minutiae regarding EXFC are neither relevant nor material to issues in this docket, the Motion to Compel a response to DBP/USPS-520 should accordingly be denied.

With respect to DBP/USPS-521, the Postal Service Objection illustrates how Mr. Popkin mischaracterized the response to DBP/USPS-379(b), thereby attempting to escalate a simple observation about a locked room to an asserted belief held by postal officials, a need to act on that belief by communicating with customers, and a concern about the construction of post office boxes. Mr. Popkin's fertile imagination constructed all of these conclusions asserted as facts, without any assistance from the Postal Service response to DBP/USPS-379(b). DBP/USPS-521 accordingly does not aid in clarifying the understanding of the underlying interrogatory; instead it opens up new areas of inquiry. See P.O. Ruling R2001-1/40 at 4. It would be patently unfair to compel the Postal Service to respond to these figments introduced via Mr. Popkin's imagination.

The Motion to Compel regarding this interrogatory is difficult to decipher, although it does claim that "[t]he Postal service does not provide any details of the claim of relevance." This statement is literally true since the Postal Service argument is that interrogatory DBP/USPS-521 is **not** relevant. The Motion then focuses upon the response to DFC/USPS-T41-8, which was not mentioned either in interrogatory DBP/USPS-521 or in the Objection, apparently arguing that DBP/USPS-521 is an obvious follow-up to the response to DBP/USPS-379(b). Since the predicate of DBP/USPS-521 consists of facts not in evidence, and not present anywhere in the response to DBP/USPS-379(b), the question cannot constitute proper follow-up. As also pointed out in the Objection, no answer to this interrogatory would provide any meaningful addition to the evidentiary record. The Motion to Compel should accordingly be denied.

In interrogatory DBP/USPS-534, Mr. Popkin inquires again about the EXFC ZIP Codes and the extent of their coverage. Despite his having possessed the list of EXFC ZIP Codes for more than year, Mr. Popkin apparently believes that his recent receipt of the non-EXFC ZIP Codes somehow creates for him a right to demand the ODIS data which demonstrate the coverage of the EXFC ZIP Codes. Mr. Popkin has explored the reach of the EXFC program

extensively in this docket, and has obtained a great deal of information that permits him to make any argument he cares to make on brief, since he apparently will not be providing testimony. In no sense is the request for ODIS data a reasonable follow-up to the response to DBP/USPS-403; nor will that information or cumulative responses to other parts of this interrogatory provide meaningful, material, or relevant information. Interrogatory DBP/USPS-534 does not aid in clarifying the response to interrogatory DBP/USPS-403; instead it seeks to open up new areas of inquiry. As such, it is not proper follow up. See P.O. Ruling R2001-1/40 at 4. The Motion to Compel should accordingly be denied since DBP/USPS-534 does not constitute proper follow-up, and would not generate additional, material or relevant admissible evidence.

WHEREFORE, the Postal Service asks the Presiding Officer to deny Mr. Popkin's Motion to Compel response to interrogatories DBP/USPS-521, 521 and 534 in its entirety.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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