

PRESIDING OFFICER'S
RULING NO. R2005-1/76

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

Postal Rate and Fee Changes

Docket No. R2005-1

PRESIDING OFFICER'S RULING
ON POPKIN MOTION TO COMPEL

(Issued September 8, 2005)

A David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-278 Subpart A (Motion) was filed August 8, 2005. A Reply of the United States Postal Service to David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-278(a) (Reply) was filed August 16, 2005.

The interrogatory in question seeks to follow up DBP/USPS-117. It asks for the rationale supporting the Postal Service conclusion that Express Mail deposited in the post office box to which it is addressed prior to the guaranteed delivery time, has been "delivered" even if the post office box in question is not accessible to the intended recipient. The Postal Service Reply states that its answer references another interrogatory response (DFC/USPS-59) that explains the Postal Service view that delivery is made when a mailpiece is deposited at the delivery address.

The Motion to Compel is denied. The Postal Service rationale is clear, even if Mr. Popkin does not consider it convincing. It appears to be the Postal Service position that mail is delivered when it is taken to the location specified by the sender, regardless of whether the intended recipient is available or able to take possession. Further

development of the record on this position will be cumulative and is not likely to lead to the production of admissible evidence.

RULING

The David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-278 Subpart A is denied.

George Omas
Presiding Officer