

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

Evolutionary Network Development  
Service Change

Docket No. N2006-1

PRESIDING OFFICER'S RULING  
ON DAVID B. POPKIN MOTION TO COMPEL  
RESPONSE TO INTERROGATORIES  
DBP/USPS-3, 6, 18, AND 19

(Issued March 31, 2006)

This ruling concerns interrogatories that are the subject of a motion<sup>1</sup> to compel responses filed by David B. Popkin on March 7, 2006. I dealt with his motion regarding DBP/USPS-30 in a previous ruling.<sup>2</sup> I address the remaining four interrogatories in turn below.

DBP/USPS-3. This interrogatory asks the Postal Service to provide a listing of all changes in service standards prior to those presented in the Service's Library Reference USPS-LR-N2006-1/2, extending "back to the last time the Commission issued a recommended decision for delivery standards." The Postal Service objects to this interrogatory on the ground that the requested information is neither material nor relevant to the issues raised by its proposal in this proceeding.<sup>3</sup>

In his motion, Mr. Popkin asserts that change in service standards is relevant because it is an integral part of processing facility consolidation, and that the evaluation of previous consolidations is an integral part of this proceeding. He notes the Service's

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<sup>1</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-3, 6, 18, 19, and 30, March 7, 2006 (Motion to Compel).

<sup>2</sup> Presiding Officer's Ruling No. N2006-1/3, March 22, 2006.

<sup>3</sup> Objections of the United States Postal Service to David Popkin Interrogatories DBP/USPS-1, 3, 6, 18 and 19, February 21, 2006 (Objections), at 2-3.

statement in its objection that it does not possess the requested information for 60 fiscal quarters, but submits that to the extent responsive information is available, it should be provided.<sup>4</sup>

In a Reply<sup>5</sup> filed on March 14, the Postal Service concedes that there have been service standard changes for various 3-digit ZIP Code pairs over the last 16 years, but challenges the relevance and materiality of any such changes in this case. While such changes can result from consolidations, the Service notes that they are not necessarily an integral part of consolidations, and can occur independently of operational changes. The Service also denies the relevance of every isolated, local operational change that has occurred in the past 16 years to the END program or related issues in this docket. Were this a complaint proceeding such as Docket No. C2001-3, the Service argues, the retrospective information sought by Mr. Popkin could possibly be relevant. The Service notes that Mr. Popkin sought and received retrospective service standard information in that proceeding. Finally, the Service represents that it overwrites the Service Standards database every quarter, and thus does not have a comprehensive list of service standards for any particular ZIP Code pair over time. According to the Service, the accumulated changes are effectively “baked into” the current service standards database in its Library Reference N2006-1/2.<sup>6</sup>

I shall deny Mr. Popkin’s motion as to this interrogatory. While consolidations that have already occurred and related operational considerations may prove relevant to matters at issue in this case, I agree with the Postal Service that the detailed retrospective account of service standard changes sought by Mr. Popkin has no relevance here. Even if such a history could be produced, it would shed no light on the merits of the prospective changes the Service proposes in this proceeding.

DBP/USPS-6. Referring to one page of the attachment to the testimony of Postal Service witness Shah, which explains applicable delivery standards, this interrogatory

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<sup>4</sup> Motion to Compel at 1-2.

<sup>5</sup> United States Postal Service Reply in Opposition to David Popkin Motion to Compel Responses to Interrogatories DBP/USPS-3, 6, 18 and 19, March 14, 2006 (Reply).

<sup>6</sup> Reply at 2-5.

seeks detailed service performance information regarding a single Processing and Distribution Center in Northern New Jersey. The Postal Service objects to the interrogatory as irrelevant to, and beyond the scope of, this proceeding.<sup>7</sup>

In his motion, Mr. Popkin argues that witness Shah's inclusion of the delivery standards information in his testimony makes it subject to evaluation by the participants in this case. He claims that the purpose of this docket is to evaluate the service standards stated by witness Shah, and notes that the interrogatory's choice of a single Processing and Distribution Center could have been broadened to include some or all of the 51 processing facilities being evaluated in this proceeding.<sup>8</sup>

The Postal Service responds that the interrogatory objectionably seeks a detailed examination and review of its determination in the 1990-1991 period to apply a First-Class Mail service standard definition reviewed in Docket No. N89-1 to the identified Northern New Jersey facility. The Service argues that Mr. Popkin had an adequate opportunity to explore such administrative implementation minutiae in Docket No. C2001-3, and that the scope of this case cannot reasonably be expanded to accommodate this kind of inquiry, as there is no proposal to change the current service standard definitions. According to the Service, witness Shah's necessary inclusion of the summary of currently applicable service standards does not open the door to an examination of the millions of determinations that have been made to apply those standards. Finally, the Service states that it has not located, and probably could not locate, any records responsive to the interrogatory's requests for implementation studies.<sup>9</sup>

The Postal Service concedes that its proposal in this case is likely to produce changes in performance under current service standards.<sup>10</sup> This being the case, it is reasonable for participants to pursue discovery that directs appropriately focused

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<sup>7</sup> Objections at 3-5.

<sup>8</sup> Motion to Compel at 2.

<sup>9</sup> Reply at 5-8.

<sup>10</sup> As witness Shah states in his prepared testimony, "most mail classes are likely to experience varying levels of changes in service." USPS-T-1 at 13.

inquiries into actual performance achieved under the current standards, as a baseline for comparison with potential service changes that may result. Subparts (a), (b) and (e) of DBP/USPS-6 fit this description, and I shall direct the Postal Service to respond to them. However, I agree with the Postal Service that the study information requested in subparts (c) and (d) are not germane to issues raised by its proposal in this case, and I shall not order their production.

DBP/USPS-18. This interrogatory asks the Postal Service to provide a listing of all processing facilities that have been closed or consolidated “since the last time the Commission issued a recommended decision for delivery standards.” The Postal Service objects on the ground of relevance.<sup>11</sup>

Mr. Popkin notes that the Service has not filed a request regarding service standards since Docket No. N89-1, and asserts the relevance of evaluating changes made since that request and their effect on the mailing public. He concedes that a discovery request encompassing 15 years is extensive, and that some shorter period may be more appropriate.<sup>12</sup>

In its Reply, the Postal Service begins by emphasizing that no such list exists. Even if a list of all facilities where consolidations and transfers of functions had occurred did exist, the Service argues, it would not provide information material to this proceeding’s inquiry into the consistency of the END program’s operational and service standard changes with the policies of the Postal Reorganization Act. Rather than conducting an historical examination of the current mail processing network, the Service asserts that the purpose of this proceeding involves taking the current state of the network as a baseline. In the Service’s view, an ability to evaluate all past operational consolidation activity is not necessary for assessing the Postal Service’s proposed END strategy.<sup>13</sup>

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<sup>11</sup> Objections at 5.

<sup>12</sup> Motion to Compel at 3.

<sup>13</sup> Reply at 8-10.

The documents filed in support of the Postal Service's request in this proceeding contain its Library References N2006-1/5 and N2006-1/6. The former consists of redacted copies of the Area Mail Processing (AMP) Decision Packages for a group of ten operational consolidations referenced in the testimony of Postal Service witness Williams, USPS-T-2. The latter is a redacted copy of the Area Mail Processing Decision Package for the Marina Processing and Distribution Center; the second page of this library reference explains that it "is being provided here for the purpose of helping the Postal Rate Commission better understand, by way of contrast to the material provided in USPS Library Reference N2006-1/5, the varied nature of consolidations that could be implemented at mail processing facilities."

All of the administrative Postal Service actions reported in these two library references were completed prior to the filing of the Service's request in this case. These supporting documents contradict the Postal Service's suggestion that past operational consolidation actions are categorically irrelevant; they are useful for illustrating the operation of the AMP process—which is critical to implementation of its END strategy—and possibly for other germane purposes.

However, documenting 15 years of prior consolidation activity seems excessive, as Mr. Popkin concedes, and may be impossible, as the Postal Service represents. For this reason, I shall grant Mr. Popkin's motion, but only as to any consolidation actions that were essentially contemporaneous with the actions reported in USPS Library References N2006-1/5 and 6. This would encompass actions initiated or completed in calendar years 2004 and 2005.

DBP/USPS-19. Referring to the list of 41 facilities for which AMP studies are pending in the Attachment to witness Williams's testimony, this interrogatory asks for a characterization of the timing and status of actions for the listed facilities. It also requests a revised list containing the dates of study initiation and completion, a brief description of the proposed consolidation action, and the current status of each. The

Postal Service objects on the ground that the interrogatory seeks information that is immaterial to its request.<sup>14</sup>

Mr. Popkin argues that witness Williams's provision of the list subjects it to evaluation by the participants, and that this evaluation reasonably extends to such basic data as the timing and status of the listed actions.<sup>15</sup>

The Postal Service replies that the AMP evaluations listed at the end of the Williams testimony are ongoing at this time, and that no issue in this proceeding hinges on more detailed information. Further, the Service argues that it should not be compelled to disclose descriptions of AMP proposals currently under consideration publicly, as such proposals are pre-decisional and subject to change at any time. Finally, the Service states its intention "to make public the final results of each of these reviews in a manner consistent with that reflected in USPS Library Reference N2006-1/5, as soon as possible after fulfilling its obligation to notify postal employee collective bargaining unit and employee association representatives."<sup>16</sup>

The testimony of witness Williams devotes considerable detail to the Postal Service's AMP review activity in connection with implementation of the END model, including its general suspension while END was being developed, the selection of 10 pending AMP proposals for testing in connection with a "full-up" implementation of END, and the initiation of 46 AMP feasibility studies, of which 41 are listed in the Attachment to his testimony.<sup>17</sup> Regarding the latter, witness Williams refers to "plans to submit the completed AMP proposals for review and approval by Headquarters in early 2006."<sup>18</sup>

Thus, the substance of the Williams testimony itself addresses the topics of the timing and status of AMP reviews in connection with implementation of the END model. Accordingly, I find the information sought by this interrogatory to be germane and material to the unfolding of the Postal Service's planned network realignment.

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<sup>14</sup> Objections at 5-6.

<sup>15</sup> Motion to Compel at 3.

<sup>16</sup> Reply at 10-12.

<sup>17</sup> USPS-T-2 at 8-12.

<sup>18</sup> *Id.* at 12.

However, the Service validly observes that these AMP proposals are pre-decisional, and their outcomes are subject to change by postal management at any time. Therefore, a “snapshot” of the status and particular features of an AMP proposal prior to a final decision would have very little ultimate value as evidence. This being the case, the Postal Service’s undertaking to provide for the record the final results of each AMP evaluation as it is completed affords an alternative superior to compelling a response at this time. Accordingly, I shall deny the motion as to this interrogatory.

### RULING

The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-3, 6, 18, 19, and 30, filed March 7, 2006, is:

1. Denied as to Interrogatory DBP/USPS-3;
2. Granted as to Interrogatory DBP/USPS-6(a), (b), and (e), but denied as to subparts (c) and (d);
3. Granted in part as to Interrogatory DBP/USPS-18, as described in the body of this ruling; and
4. Denied as to Interrogatory DBP/USPS-19.

Dawn A. Tisdale  
Presiding Officer