

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 INTERROGATORIES DBP/USPS-467, 472, and 473
(September 5, 2006)

The United States Postal Service hereby opposes David B. Popkin's motion to compel responses to interrogatories DBP/USPS-467, 472, and 473, filed on August 30, 2006. These interrogatories were filed by Mr. Popkin on August 7, 2006 and were objected to by the Postal Service on August 17, 2006. The interrogatories read as follows:

DBP/USPS-467 Please refer to your response to Interrogatory DBP/USPS-124.

[a] Under the present procedures please confirm, or explain if you are unable to confirm, that mailpieces that are insured for \$50 or less will be marked with an oval marking with the word INSURED contained in it.

[b] How does the mailer obtain this marking for mailpieces that are not mailed over a retail window?

DBP/USPS-472 Please refer to your response to Interrogatory DBP/USPS-124. It is proposed in this Docket to change the necessity of obtaining the addressee's signature from parcels insured for \$50.01 or more to those insured for \$200.01 or more. Please indicate how it is proposed under the proposed regulations to mark each of the mailpieces that are presented in any authorized manner and for any authorized value of insurance. Please provide copies of the marking.

DBP/USPS-473 Please refer to your response to Interrogatory DBP/USPS-124. It is proposed in this Docket to obtain a delivery scan for all mailpieces insured for \$200 or less.

[a] Since this will now require an identifying number and barcode for mailpieces insured for \$50 or less, will it now be possible to obtain a return receipt for this type of mailpiece?

[b] If not, why not?

The Postal Service objected to DBP/USPS-467, 472, and 473 on the grounds of improper follow-up and relevance. In his motion, Mr. Popkin asserts that the above-referenced interrogatories are proper follow-up to DBP/USPS-124. As stated in the Postal Service's objection, in order to be valid follow-up, interrogatories must satisfy the requirements of Rule 26(a). In interpreting follow-up discovery under Rule 26(a), the Presiding Officer has stated:

To decide whether interrogatories can reasonably be deemed follow-up, one must look at the original question and answer and then determine whether the new question is a logical next step in consideration of the issue.

See P.O. Ruling No. R90-1/56 at 2. The Postal Service again submits that DBP/USPS-467, 472, and 473 constitute improper follow-up under Rule 26(a).

Mr. Popkin claims in his motion that these three interrogatories are proper follow-up because they will “resolve the technicality” created by the Postal Service’s response to DBP/USPS-124. Mr. Popkin bases this “technicality” on his self-stated *belief* that “the oval insured marking is applied to mailpieces both by means of a label [such as might occur with an APC] and a rubber stamp [such as might occur at a retail window].” See Popkin Motion to Compel at 3. However, DBP/USPS-124 neither inquired, nor did the Postal Service respond, in regards to the different *means* by which insured mail markings are applied. Mr. Popkin’s theorizing about this alleged “technicality” in the above-listed interrogatories is not a logical next step in consideration of DBP/USPS-124.

In addition, Mr. Popkin claims that DBP/USPS-473 is an attempt to determine “how the Postal Service will be able to obtain a delivery scan if there is no tracking number on the mailpiece.” But DBP/USPS-124 clearly was asking only about current procedures, and its response did not raise new issues about future procedures. If Mr. Popkin was interested in future practice upon implementation of the Postal Service’s proposal, he should have directly asked about this during the regular discovery period. In fact, this interrogatory could have been asked based on witness Mitchum’s testimony that the Postal Service plans to “include a barcode for all insured items, which will be scanned at delivery,” as well as the subsequent discussion. See Testimony of Witness Mitchum, USPS-T-40, at pages 24-25. Mr. Popkin also should have submitted interrogatories to investigate his theory pertaining to the application of insured mail labels during the initial discovery period, because as stated above, these three interrogatories did not logically arise from DBP/USPS-124. Therefore, DBP/USPS-467, 472, and 473 constitute improper follow-up under Rule 26(a).

Finally, Mr. Popkin asserts in his motion that these interrogatories are “relevant to the value of service for insured mail.” See Popkin Motion to Compel at 3-4. The Postal Service reiterates its objection to DBP/USPS-467 and 472 on the grounds of relevance.

As the Presiding Officer stated in Docket No. R2001-1:

[M]atters of purely personal interest or concerning purely local conditions are often not relevant in an omnibus proceeding, and are therefore objectionable on that basis. Mr. Popkin has not shown sufficient nexus between the detail he requests, and the development of relevant evidence to warrant compelling answers.

P.O.R. No. R2000-1/56 at 5. The Postal Service fails to see how providing details about the markings placed on insured mail pieces, or providing copies of the markings

themselves, is relevant to an omnibus rate proceeding. These interrogatories simply reflect Mr. Popkin's personal interest in the smallest details of insured mail markings, despite Mr. Popkin's contention that these interrogatories are necessary to resolve the alleged "technicality." Moreover, Mr. Popkin has failed in his motion to compel to articulate how these details are relevant to the value of service for insured mail. Thus, the Postal Service considers the above-referenced interrogatories irrelevant to the issues in the instant docket.

For the aforementioned reasons, the Postal Service opposes Mr. Popkin's motion to compel responses to interrogatories DBP/USPS-467, 472, and 473.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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September 5, 2006