

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

Postal Rate Commission
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Postal Rate and Fee Changes, 2006]

DOCKET NO. R2006-1

DAVID B. POPKIN MOTION TO COMPEL RESPONSE TO INTERROGATORIES
DBP/USPS-253 AND 254 AND TO FILE A MOTION FOR LATE ACCEPTANCE OF THE
RESPONSE

I move to compel response to the interrogatories submitted to the United States Postal Service that has been objected to by them.

October 18, 2006

Respectfully submitted,

R20061MTC30A253254

DAVID B. POPKIN, POST OFFICE BOX 528, ENGLEWOOD, NJ 07631-0528

On July 10, 2006, I submitted Interrogatories DBP/USPS-253 and 254. On July 20, 2006, the Postal Service filed an objection to these interrogatories. On August 2, 2006, I filed a Motion to Compel responses. On August 9, 2006, the Postal Service filed a Reply to my Motion to Compel.

On September 11, 2006, the Presiding Officer issued Ruling 63 compelling a response to these Interrogatories by September 15, 2006. On October 13, 2006, I filed another Motion to Compel a response. On October 17, 2006, the Postal Service filed their responses.

The interrogatories and their response read as follows:

**RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORY OF DAVID POPKIN
DBP/USPS-253**

Please provide your best estimate of the percentage of processing facilities that provide overnight First-Class Mail service standards to all of the SCF or 3-digit ZIP Code destinations that have a transit time of three hours or less dock-to-dock and receive 1.5% or more of the originating volume of the facility.

RESPONSE

For the reasons expressed and referenced in its objection and in its reply to the motion to compel, the Postal Service has no empirical basis for estimating this

percentage. Short of performing the estimated 3 hours of analysis necessary to review each of 450 mail processing plants and develop a precise estimate of the number that provide overnight First-Class Mail service to all of the possible 932 destinating 3-digit ZIP Code areas that might receive 1.5 percent of the origin's ZIP Code's First-Class Mail, the Postal Service has no basis for determining how good any particular employee's "best guess" of that percentage might be. Accordingly, the Postal Service considers it imprudent to require any employee, for purposes of this interrogatory, to offer an institutional "best guess" that has no reliable foundation for support.

**RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORY OF DAVID POPKIN
DBP/USPS-254**

[a] Please discuss why the "line" between First-Class Mail overnight and 2-day service is not complied with to the same extent as the "line" between 2-day and 3-day service standards is complied with.

[b] Please discuss any plans to improve the level of compliance for the overnight/2-day line.

RESPONSE

(a) If that is so, it is not known why it is so.

(b) This response assumes, perhaps vainly, that the question refers to any non-compliance with the *actual* demarcation between the overnight and two-day service standard definitions, and that the question recognizes that the actual overnight definition does not require delivery to all 3-digit zones within a 3-hour drive that meet the 1.5 percent volume threshold.

The precise level of systemwide 1-day/2-day demarcation non-compliance is unknown and, therefore, it is not known precisely how it compares to 2-day/3-day demarcation non-compliance. Case-by-case analysis of 1-day/2-day demarcation non-compliance have not been performed.

Service standards are reviewed on a case-by-case basis, as a part of such programs as the Evolutionary Network Development initiative.

These programs present opportunities to analyze any deviations that are and to consider and execute change.

The significant part of the Presiding Officer's Ruling is as follows:

DBP/USPS-253 and 254. On August 2, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-253 and 254.⁹ These interrogatories seek information concerning First-Class Mail service standards.

DBP/USPS-253

Please provide your best estimate of the percentage of processing facilities that provide overnight First-Class Mail service standards to all of the SCF or 3-digit ZIP Code destinations that have a transit time of three hours or less dock-to-dock and receive 1.5% or more of the originating volume of the facility.

DBP/USPS-254

[a] Please discuss why the "line" between First-Class Mail overnight and 2-day service is not complied with to the same extent as the "line"

between 2-day and 3-day service standards is complied with.

[b] Please discuss any plans to improve the level of compliance for the overnight/2-day line.

Mr. Popkin states that the objective of these interrogatories is to evaluate the value of service of First-Class Mail. He states that he is attempting to determine the degree to which the Postal Service complies with its own delivery standards guidelines, and the extent to which improvement in compliance will affect costs.

⁹ David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-253 and 254, August 2, 2006.

The Postal Service filed an objection to answering these interrogatories on July 20, 2006, and a reply to the motion to compel on August 9, 2006.¹⁰ It contends that the questions do not seek information relevant to First-Class Mail costs or rates. The Postal Service asserts that the interrogatories are similar to interrogatories asked in Docket No. N2006-1/21, which also were the subject of a motion to compel. As in Docket No. N2006-1/21, the Postal Service states that it would take exhaustive analysis to formulate a response, and that it should not be saddled with so onerous a burden to determine compliance with “discretionary” standards. The Docket No. N2006-1/21 presiding officer concluded that the interrogatories would not lead to admissible evidence and denied Mr. Popkin’s motion. See Presiding Officer’s Ruling No. N2006-1/21, July 7, 2006.

Ruling. The Postal Service’s service standards and its ability to meet its service standards appear to be relevant to an understanding of First-Class Mail service.

Mr. Popkin requests an “estimate” of compliance. Providing a response should not be a burdensome task. The Postal Service shall provide its best estimate, along with a general qualitative description of the confidence it has in its estimate (this could include a discussion of why no estimate can be made, if that is the case).

Interrogatory DBP/USPS-254 appears to pose an appropriate question that may provide insight into First-Class Mail service. The Postal Service may not be able to provide a response to DBP/USPS-254 (a) if the Postal Service does not have the necessary information to respond to DBP/USPS-253. If this is the case, the Postal Service may state this as its response.

3. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-253 and 254, filed August 2, 2006, is granted consistent with the body of this Ruling. Responses shall be filed by September 15, 2006.

The Presiding Officer's Ruling stated that the Postal Service should provide its best estimate as to the extent to which it complies with its own guidelines to establish the overnight delivery standards. In the response to the Interrogatory, the Postal Service states that it would take 1350 hours of analysis [450 mail processing plants at 3 hours each] to develop a precise estimate of the number that provide overnight First-Class Mail service to all of the possible 932

destinating 3-digit ZIP Code areas that might receive 1.5 percent of the origin's ZIP Code's First-Class Mail.

First of all, the Postal Service's response is misleading since it is not necessary to evaluate all 932 destinating 3-digit ZIP Code areas. The only ones that require evaluation are those that are within a dock-to-dock transit time of three hours or less and also not including those that are already receiving overnight delivery standards.

After receiving the response to my Interrogatory, I looked at the Postal Service's CDrom containing the delivery service standards for the entire country. In less than an hour, I developed the information that appears in my follow-up Interrogatory DBP/USPS-694 which is also being filed today. I looked at major cities around the country and found "red areas" [the color used on the CDrom for 2-day delivery standards] that were well within the three hour transit time [the mileage appears on the CDrom and I chose those areas that were less than a hundred or so miles from the origin] and which I felt would meet the 1.5% volume criteria. Obviously, I do not have the data on the volume of mail and need this information from the Postal Service. The data which is provided in response to Interrogatory DBP/USPS-694 of the level of "compliance" with the criteria for overnight delivery standards should give me and subsequently the Commission the degree to which the actual service standards match the criteria that the Postal Service has established for overnight delivery of First-Class Mail.

Evaluation of the major cities throughout the country should provide a quick and easy "best guess" since that is where the higher mail volume exists. Of course, the Postal Service is free to perform a full and complete evaluation and determine how many of the 450 facilities have one or more areas that meet the criteria for being evaluated for overnight service but are presently receiving 2-day service.

I also notice that the Postal Service did not file a Motion for Late Acceptance of the responses to these two Interrogatories that was filed over one month late. This is even more upsetting since the response basically said that there is no response.

For the reasons stated, I move to compel response to the referenced interrogatories since it is reasonably calculated to lead to the discovery of admissible evidence.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

David B. Popkin October 18, 2006
