

**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001**

**Complaint on First-Class Mail
Service Standards**

Docket No. C2001-3

**DOUGLAS F. CARLSON
COMMENTS ON DISCOVERY AND SCHEDULING ISSUES**

February 12, 2003

Pursuant to POR C2001-3/34,¹ I hereby provide comments in response to the Postal Service's status report on outstanding discovery² and on scheduling issues.

The Postal Service's status report contains no justification or even regrets for delays of more than *one year* in fulfilling its legal obligation to respond to discovery requests. Moreover, it is apparent that the delays are not a result of diligent work to compile data or information necessary to respond to the discovery requests. Five months ago, the presiding officer lamented the Postal Service's "considered decision to decline to participate in this proceeding in a manner that would allow its fair and timely resolution."³ At a minimum, the presiding officer's concern should receive prominent discussion in the public report that the Commission will issue at the conclusion of this proceeding. As various entities, including Congress and the President's Commission on the United States Postal Service, consider reforms to the statutory framework governing the Postal Service, the Commission's public report should

¹ POR C2001-3/34, filed January 17, 2003.

² Status Report of the United States Postal Service ("Status Report"), filed February 5, 2003.

³ POR C2001-3/31 at 1, filed September 12, 2002.

demonstrate the dangers in providing increased and unregulated flexibility to an agency that already willfully disregards its obligations under the existing statute.

At this time, only two specific discovery issues require comment. The first issue is interrogatory DFC/USPS-7, which requested copies of correspondence that the Postal Service received concerning changes in First-Class Mail service standards. I reject the Postal Service's proposal to sidestep the interrogatory's request for production of documents and instead merely to enter a stipulation as to the number of pieces of correspondence that raised this issue. Any further comment or elaboration on my position would be premature at this time since the Postal Service plans to file a motion to request this stipulation. I will respond to this motion pursuant to Rule 21(b).

Second, POR C2001-3/27⁴ provided the Postal Service and me the opportunity to agree on an appropriate level of public disclosure of volume data that I requested in interrogatory DFC/USPS-1. The Postal Service and I have reached an agreement, and we will file a motion for acceptance of our agreement shortly.

Regarding the procedural schedule, absent any future interrogatory responses that spark an unexpected line of inquiry, I still anticipate that I will be able to file testimony four and one half weeks after the final interrogatory response is filed. Specifying dates for procedural deadlines would be premature because a likely dispute over interrogatory DFC/USPS-7 makes the date of even the first major event — the filing of responses to all outstanding discovery requests — uncertain. After I file my testimony, additional uncertainties will exist. First, the Postal Service and other parties may or may not seek oral cross-examination on my direct testimony. Second, the Postal Service and other parties may or may not file a direct case. Third, if the Postal Service or another party files a direct case, I may or may not file rebuttal testimony. Moreover, most

⁴ POR C2001-3/27, filed July 17, 2002.

of these events are independent and could occur in a variety of combinations, thus making it impractical to announce a comprehensive procedural schedule at this time.

After the presiding officer announces a deadline for me to file testimony, I suggest that the presiding officer establish a procedural schedule similar to the one that I proposed in Docket No. C2001-1⁵ and that the presiding officer approved.⁶ The schedule facilitated an orderly conclusion to Docket No. C2001-1, and a similar schedule should respect each party's needs and interests in Docket No. C2001-3 as well.

Respectfully submitted,

Dated: February 11, 2003

DOUGLAS F. CARLSON

⁵ Docket No. C2001-1, Douglas F. Carlson Proposed Procedural Schedule, filed April 24, 2002.

⁶ POR C2001-1/19, filed May 2, 2002.