

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

Complaint on First-Class Mail Service Standards

Docket No. C2001-3

PRESIDING OFFICER'S RULING ON POSTAL SERVICE MOTION ON
PROCEDURES IN LIEU OF HEARINGS, RELATED PROPOSAL CONCERNING
REBUTTAL TESTIMONY AND DOUGLAS F. CARLSON MOTION FOR LATE
ACCEPTANCE OF TESTIMONY

(Issued January 28, 2004)

This ruling disposes of several pending procedural matters. First, it grants the Postal Service's unopposed request for establishment of certain procedures in lieu of the formal hearing, now scheduled January 30, 2004, for receipt of complainant Carlson's testimony and any cross-examination thereon. Second, it accepts the Service's unopposed proposal that it be allowed to file rebuttal testimony. Motion of the United States Postal Service Concerning Scheduled Hearings and Proposal for Next Stage of Proceedings (Postal Service Motion) January 26, 2004. Third, it grants the unopposed Douglas F. Carlson Motion for Late Acceptance of Direct Testimony, filed December 8, 2003.

Motion seeking authorization of certain procedures in lieu of upcoming hearing on direct testimony. The Service moves that the Presiding Officer permit the complainant to file a motion moving his testimony into evidence, along with an accompanying declaration. It suggests that any other party seeking to designate interrogatory responses into the record be allowed to file a motion on the same date set for the complainant's motion, or on some other appropriate date. *Id.* at 1-2. The Service also suggests that both the complainant and any parties choosing to designate interrogatories file pleadings in a manner and form consistent with past Commission practice. *Ibid.* (Footnote omitted.) The Service states that it has contacted all parties, and has determined that none intends to object to any motion that the complainant's

testimony be entered into evidence in this docket, and that none intends to conduct oral cross-examination of the testimony or the interrogatory responses. Postal Service Motion at 1.

Given the absence of any objection to the Service's suggestions, I hereby grant the Postal Service Motion as it relates to the establishment of certain procedures in lieu of a formal hearing. This entails cancellation of the hearing currently scheduled for Friday, January 30, 2004; establishment of a February 6, 2004 deadline for the filing of Mr. Carlson's motion for acceptance of his testimony (and related declaration); and establishment of the same deadline (Friday, February 6, 2004) for the filing of designated cross-examination.

Proposal concerning rebuttal testimony. A second aspect of the Postal Service Motion is the request for an opportunity to submit rebuttal testimony. In support of its request, the Service states that the primary purpose of this testimony "would be to provide the Presiding Officer and the Commission with an accurate and more complete factual basis upon which to judge some of the major assertions" in complainant's direct testimony. *Id.* at 2. It requests that the date for filing this testimony not be before March 8, 2004. The Service indicates that no party objects to this request. *Ibid.*

In the interest of a complete record, I will grant the Service's request for the scheduling of rebuttal testimony. I will set March 8, 2004 as the deadline for filing that testimony, with discovery permissible until April 5, 2004.

Motion for late acceptance. In an earlier pleading, Mr. Carlson noted that he encountered technical problems when trying to submit his testimony electronically on Friday, December 5, 2003, which was the deadline for filing, and therefore filed the testimony the following Monday. Douglas F. Carlson Motion for Late Acceptance of Direct Testimony, December 9, 2003. As it appears that no party was unduly prejudiced by this inadvertent delay, this motion is granted.

RULING

1. The Motion of the United States Postal Service Concerning Scheduled Hearings and Proposal for Next Stage of Proceedings, filed January 26, 2004, is granted.
2. Complainant Douglas F. Carlson is directed to file a motion moving his direct testimony into evidence, along with a declaration attesting to that testimony, consistent with the terms noted in the body of this ruling, no later than February 6, 2004.
3. Parties seeking to designate interrogatory responses into the record are directed to file an appropriate motion no later than February 6, 2004.
4. The Postal Service is directed to file its rebuttal testimony by March 8, 2004.
5. Discovery on Postal Service rebuttal testimony will conclude on April 5, 2004.
6. The Douglas F. Carlson Motion for Late Acceptance of Direct Testimony, filed December 9, 2003, is granted.
7. Based on actions discussed in the body of this ruling and identified in Ruling Paragraphs Nos. 1, 2 and 3 above, the hearing set for Friday, January 30, 2004, for the receipt of the testimony of Douglas F. Carlson and cross-examination thereon is cancelled.

Ruth Y. Goldway
Presiding Officer