

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 PROCEDURAL
MATTERS AND THE EVIDENTIARY RECORD

(Issued August 16, 2004)

This case, which has been underway for an extended period, is now nearing completion in terms of participants' responsibilities and certain related Presiding Officer's duties. Given this fact and the attenuated nature of this case, this ruling reviews and clarifies the status of several matters and closes the evidentiary record. Given that formal hearings were not held in this case, it also provides an opportunity for me to extend my appreciation to all participants for their cooperation with various scheduling decisions and rulings, especially those resolving discovery disputes. This materially assisted in the development of a comprehensive, but manageable, record.

Outstanding motion related to a late submission. Presiding Officer's Ruling No. C2001-3/42, issued May 14, 2004, asked the Postal Service to file a written statement regarding its position on the need for discovery or a hearing on Mr. Carlson's rebuttal testimony by June 10, 2004. On June 21, 2004, the Service filed its response, along with an accompanying motion for late acceptance, indicating that it had no intention of conducting cross-examination or of filing responsive testimony. United States Postal Service Motion for Late Acceptance of Statement Responsive to Presiding Officer's Ruling No. C2001-3/42, June 21, 2004 (Postal Service Motion for Late Acceptance); United States Postal Service Statement Addressing Need for Further Discovery or Oral Cross-Examination, June 21, 2004. The Postal Service Motion for

Late Acceptance is granted, as the late submission was inadvertent and resulted in no harm.

Complainant's testimony. Previous rulings granted the Douglas F. Carlson Motion to Submit Testimony by Affidavit, February 6, 2004 and formally authorized Mr. Carlson to file rebuttal testimony. See P.O. Ruling No. C2001-3/43 and P.O. Ruling No. C2001-3/42, both filed May 14, 2004. Pursuant to this authorization, Mr. Carlson's rebuttal testimony (identified as DFC-RT-1) was submitted on May 27, 2004. This ruling establishes that both pieces of testimony have been received and entered into the evidentiary record of this proceeding.

Postal Service-sponsored testimony. P.O. Ruling No. C2001-3/42 also provided that Postal Service witness Gannon's testimony would be entered into evidence via motion and affidavit or declaration. The Postal Service provided hard copies of Mr. Gannon's testimony (USPS-T-1), along with a related declaration, on May 19, 2004. This ruling establishes that the referenced testimony has been received and entered into the evidentiary record of this proceeding. As some of the designated interrogatories include those directed to Mr. Gannon in his original capacity as a declarant, this ruling further establishes that the Declaration of Charles M. Gannon, filed July 30, 2001, has been received and entered into the evidentiary record of this proceeding.

Related designated discovery responses. In response to previous rulings, participants have filed designations of written cross-examination responses and related declarations and affidavits as required.¹ This ruling establishes that these responses have been received and entered into the evidentiary record of this proceeding. The designated responses will be transcribed.

¹ See Douglas F. Carlson Designations of Written Cross-examination, May 20, 2004; Office of Consumer Advocate Designation of Written Cross-Examination of United States Postal Service Witness Charles M. Gannon (USPS-T-1), May 20, 2004; Office of Consumer Advocate Designation of Written Cross-Examination of Complainant Douglas F. Carlson (DFC-T1), February 2, 2004; Office of Consumer Advocate Designation of Responses to Written Cross-Examination of United States Postal Service Declarant Charles M. Gannon (Gan), February 24, 2004. See *also* P.O. Ruling No. C2001-3/42, Ruling Paragraph No. 1.

Closing the record. As presentation of further evidence in this docket is not anticipated, the record in this case is hereby closed.

RULING

1. The United States Postal Service Motion for Late Acceptance of Statement Responsive to Presiding Officer's Ruling No. C2001-3/42, which was filed June 21, 2004, is granted.
2. The Motion of the United States Postal Service for Entry of Testimony of Witness Gannon (USPS-T-1) into Evidence, which was filed May 19, 2004, is granted.
3. The Gannon declaration, the Gannon testimony (USPS-T-1), the Carlson testimonies (DFC-T-1 and DFC-RT-1) and all designated responses to cross-examination identified or referred to in this Ruling have been received and entered into the evidentiary record of this proceeding.
4. The evidentiary record in Docket No. C2001-3 is closed, and to the extent not subject to protective conditions, will be transcribed.

Ruth Y. Goldway
Presiding Officer