

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

Postal Rate and Fee Changes

Docket No. R2005-1

PRESIDING OFFICER'S RULING
ON DOUGLAS F. CARLSON MOTION TO COMPEL
RESPONSE TO INTERROGATORY

(Issued July 7, 2005)

On June 9, 2005, Douglas F. Carlson filed a motion to compel a response to his interrogatory DFC/USPS-47.¹ That interrogatory asks the Service to provide the total number of collection boxes according to the most recently available data, disaggregated into those used for Express Mail and non-Express Mail collections. It also asks the Service to identify the data system from which the responsive information is obtained. The Postal Service objected to the interrogatory on the grounds of relevance and cumulative burden.²

This dispute has roots in earlier discovery practice and rulings in this case. In response to Mr. Popkin's interrogatory DBP/USPS-1, the Postal Service initially lodged a partial objection, but ultimately filed a comprehensive list of collections boxes, by type, for Fiscal Years 2001, 2002, 2003, and 2004.³ Mr. Carlson subsequently filed DFC/USPS-20 and -21, which pursued related subjects. The Postal Service objected in

¹ Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-47, June 9, 2005.

² Objection of the United States Postal Service to Interrogatory of Douglas F. Carlson (DFC/USPS-47), May 27, 2005.

³ Responses of the United States Postal Service to Interrogatories of David Popkin (DBP/USPS-1, 3), April 25, 2005.

part to these interrogatories.⁴ Mr. Carlson moved to compel a response to one subpart of his interrogatory DFC/USPS-21,⁵ which I granted in P.O. Ruling No. 15.⁶

The Postal Service's compelled response to DFC/USPS-21(c) confirms that data maintained in the Collection Box Management System (CBMS) at the district level may differ from that available at the headquarters level.⁷ Citing this response, and stating his belief that CBMS data from the district level are uploaded to headquarters only periodically, Mr. Carlson's motion asserts that such data are likely to be from eight months to one year fresher than the data provided in response to Mr. Popkin's interrogatory. He argues that data responsive to his interrogatory currently at issue—*i.e.*, the number of collection boxes in service as of June 2005—are clearly relevant to the value of First-Class Mail and Express Mail service in the test year, as they represent one measure of the ease of using those services. Indeed, he suggests that the Postal Service should have provided projections of such results for the test year in its request in response to the requirements of section 54(e) of the Commission's rules. Because the Postal Service failed to provide information for the test year, Mr. Carlson argues that he is entitled to obtain reasonably fresh data for his own analysis. He also surmises that the Service may be able to respond to the interrogatory by querying a new Collection Point Management System (CPMS) database containing the fresher information.

On the subject of burden, Mr. Carlson asserts that his interrogatory would require a simpler inquiry than DBP/USPS-1 did and focuses on the current year, thereby avoiding the complexity associated with queries seeking historical data. He also asks that any new information the Postal Service may proffer on the subject of burden be

⁴ Objections of the United States Postal Service to Interrogatories of Douglas F. Carlson (DFC/USPS-20 -21), May 2, 2005.

⁵ Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-21(c), May 16, 2005.

⁶ P.O. Ruling R2005-1/15, May 26, 2005.

⁷ Response of the United States Postal Service to Interrogatory of Douglas F. Carlson (DFC/USPS-21.c), June 2, 2005.

disregarded, as it failed to quantify the anticipated additional burden in its objection, contrary to the requirement in section 26(c) of the rules of practice.

In an Opposition⁸ filed on June 16, the Postal Service continues to resist producing the required data on the grounds of relevance and undue burden. The Service denies that the raw number of collection boxes has any direct relevance as a measure of value of service, arguing that addition of boxes in high-volume locations may more than counterbalance a higher number of box reductions in low-volume locations. It also denies that section 54(e) of the rules, which pertains to “special service arrangements,” requires the production of the number of collection boxes in the test year, and notes that the provision has never been interpreted to that effect. The Service disputes the marginal relevance of the updated information sought, claiming that the base year information it has already provided is more current than Mr. Carlson’s characterization, and is sufficient for the purposes of this proceeding.

The Service also argues that it would be unfair to assess the burden of responding to the current request without considering the previous burden it sustained to produce collection box information. According to the Service, it made a good-faith effort to provide all appropriate information requested by Mr. Popkin while minimizing motions practice, which required coordination of work from Postal Service headquarters through operations in San Mateo, and then back to headquarters for filing. Given the necessity of further queries of operational personnel, who are not ordinarily dedicated to rate case support, the Service submits that the burden of providing additional responsive information would be undue.

In P.O. Ruling No. 15, I found that “the data contained in the Collection Box Management System potentially bear on the value of services that rely on collection boxes for acceptance.”⁹ However, because the controversy did not require an

⁸ Opposition of the United States Postal Service to Motion to Compel of Douglas F. Carlson Regarding DFC/USPS-21(c), May 23, 2005.

⁹ Presiding Officer’s Ruling No. R2005-1/15, May 26, 2005, at 3.

assessment of the degree of that information's relevance in this proceeding, I made no finding on that matter.

I agree with the Postal Service that, in the setting of an omnibus rate proceeding, the relevance of the number of collection boxes deployed during various periods of time is likely to be attenuated. While a pattern of change in the receptacles and other resources available to the public for depositing mail could well shed light on how value of service may have changed over time, raw counts of the number of mailboxes are likely to be indirect and incomplete indicia, at best. And contrary to Mr. Carlson's suggestion, there is no basis for concluding that the Postal Service bears an obligation to produce such information under the requirements of section 54(e) regarding special service arrangements, which the rule exemplifies as "services relating to mailer preparations in excess of requirements specified by the Postal Service Manual, pick-up and delivery, expedited or deferred processing, and other similar activities performed." 39 CFR § 3001.54(e). Deposit of mail in collection boxes by the public is an ordinary, rather than special, service arrangement.

It is possible, even in a general rate case, that a particular factual controversy might justify the effort of producing the additional information sought in Mr. Carlson's interrogatory. However, that does not appear to be the case here. In response to Mr. Popkin's inquiry, the Postal Service made a reasonable effort to produce nationwide data through the most recently concluded fiscal year. The requested updated information from the field would likely make a very limited incremental contribution to the record on the value of service issue; for that reason, I find that imposing the additional effort required to produce it would not be justified. Consequently, I shall deny Mr. Carlson's motion to compel.

RULING

The Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-47, filed June 9, 2005, is denied.

George Omas
Presiding Officer