

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

Six-Day to Five-Day Street Delivery
and Related Service Changes

Docket No. N2010-1

PRESIDING OFFICER'S RULING DENYING
CARLSON MOTION TO RESCHEDULE THE APPEARANCE
OF WITNESS GRANHOLM FOR ORAL CROSS-EXAMINATION

(Issued July 6, 2010)

On July 1, 2010, Douglas F. Carlson (Carlson) filed a motion to reschedule the appearance of Postal Service witness Granholm.¹ Previously, in P.O. Ruling N2010-1/10, witness Granholm was scheduled to appear on July 14, 2010. In his Motion, Carlson asks that witness Granholm's appearance be rescheduled to July 20 or 21, 2010. Motion at 1-2.

Carlson states that he wishes to cross-examine witness Granholm, but is unavailable to do so on July 14, 2010. *Id.* at 2. Carlson represents that the alternate days he selected are agreeable to intervenor the National Association of Letter Carriers (NALC). *Id.* Carlson notes that witness Granholm's calendar during the week of July 19, 2010 was filled within 27 hours of the Presiding Officer's ruling scheduling the witnesses. *Id.* Carlson relies on the scheduling in Docket No. R97-1, where the Presiding Officer did not schedule witnesses until after the notice of intent to cross-

¹ Douglas F. Carlson Motion to Reschedule the Appearance of Witness Granholm for Oral Cross-Examination, July 1, 2010 (Motion).

examine was due. *Id.* at 1. Carlson implies that he would have put forward his scheduling preferences in his notice of intent to conduct oral cross-examination. *Id.*

Also on July 1, 2010, the Postal Service filed in opposition to Carlson's Motion.² The Postal Service states that witness Granholm is now unavailable during the week of July 19-23, 2010. *Id.* at 1. The Postal Service notes that because many of the witnesses are senior Postal Service personnel with critical professional responsibilities, it had waited until after the scheduling order to arrange departmental and customer meetings, postal and family commitments, and academic and family obligations. *Id.* at 2. The Postal Service notes the voluntary nature of participation in Commission proceedings, and the burden that participation may entail. *Id.* at 3. The Postal Service also notes the interest in presenting testimony and cross-examination in a logical progression, which would be disrupted if Carlson's accommodation was granted. *Id.*

Carlson has been on notice since P.O. Ruling N2010-1/1, filed April 28, 2010, that, "After reviewing witness availability, a later ruling will set out the dates for the appearance for oral cross-examination of Postal Service witnesses." P.O. Ruling N2010-1/1 at 3. On June 11, 2010, the Commission directed the Postal Service to provide witness availability for cross-examination, "maximize[ing] witness availability during the middle of each week: July 13-15 and 20-22, 2010." P.O. Ruling N2010-1/8 at 1. Carlson did not indicate his preferences until after P.O. Ruling N2010-1/10, filed June 29, 2010, scheduled witness Granholm on a day that Carlson was unavailable. Carlson's reliance on the timing of the ruling scheduling witnesses in Docket No. R97-1 is not well placed. Absent a ruling calling for earlier filing, Commission rule 3001.30(e)(3) requires a notice of intent to conduct oral cross-examination three or more working days before the announced appearance of the witness. Clearly, witness appearances have to be scheduled before notices of intent to cross-examine.

² United States Postal Service Opposition to Douglas F. Carlson Motion to Reschedule the Appearance of Witness Granholm for Oral Cross-Examination, July 1, 2010.

Although sympathetic to the demands this case places on intervenor's time, after balancing the relevant interests, the schedule of witnesses established in P.O. Ruling N2010-1/10 stands.³

RULING

The Douglas F. Carlson Motion to Reschedule the Appearance of Witness Granholm for Oral Cross-Examination, filed July 1, 2010, is denied.

Ruth Y. Goldway
Presiding Officer

³ Mr. Carlson may suggest potential lines of cross-examination to other intervenors.