

ORIGINAL

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

RECEIVED  
Nov 25 4 27 PM '96

POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

SPECIAL SERVICES REFORM, 1996

Docket No. MC96-3

OBJECTION OF UNITED STATES POSTAL SERVICE  
TO INTERROGATORIES OF DOUGLAS F. CARLSON  
(DFC/USPS-1-6)

The Postal Service hereby objects to interrogatories DFC/USPS-1-6 propounded by Douglas F. Carlson and filed on November 14, 1996. A general objection to DFC/USPS-1-6 is presented first. Specific objections to respective interrogatories follow.

*General Objection.* Interrogatories DFC/USPS-1-6 seek institutional responses from the Postal Service on a variety of topics ranging from historical postal card issues to return receipt delivery operations. These interrogatories are not identified as follow-up, nor do they qualify as such; the interrogatories, are, moreover, filed out of time under Special Rule of Practice 2.E. The scope of Rule 2.E was the subject of Presiding Officer's Ruling No. MC96-3/21, issued October 18, 1996, which states in pertinent part:

Rule 2.E was generally intended to extend the otherwise applicable discovery period for information that can be obtained only from the Postal Service that is needed to prepare rebuttal testimony.

In this case, Mr. Carlson has already prepared and submitted his testimony rebutting the Postal Service case; accordingly, Rule 2.E is inapplicable as a means of avoiding the procedural schedule to propound new interrogatories.

The United States Postal Service therefore objects to interrogatories DFC/USPS-1-

NOV 25 1996

6 on the grounds that 1) they are filed after the close of discovery on the Postal Service's direct case and are, accordingly, late; 2) they are not follow-up as that term is used in Rule 2.D because they could have, but were not, propounded during the regular discovery period and no interrogatory (or other) response shed new light which the interrogatory sought to explore; and 3) since the purpose of the interrogatories is not, as required by Rule 2.E, to develop rebuttal testimony from materials solely in the possession of the Postal Service, that rule does not permit the late filing of the interrogatories. As discussed further below, many of the questions are not relevant to issues in this case and present additional grounds for objections.

*Interrogatories DFC/USPS-1, 2, and 3.* Interrogatory 1 requests information on the underlying bases for decisions by postal management, executed in prior decades, to introduce multi-color postal cards and eliminate single-color design postal cards. Interrogatory 2 seeks detailed historical information on postal cards issued eleven years ago commemorating Charles Carroll, George Wythe, and Clipper Flying Cloud. In the alternative, the Postal Service is asked to provide detailed, historical, comparative cost information for multi- and single-color postal cards. Interrogatory 3 asks whether the Postal Service has considered producing single-color design postal cards since September 9, 1996.

Interrogatories 1, 2 and 3 are objectionable on grounds of relevance. The information sought to be elicited in these interrogatories is plainly not material to the issues before the Commission and beyond the scope of this proceeding. Procedures and policies related to designs for postal stationery are well within the Postal Service's

and the Citizen's Stamp Advisory Committee's discretion. See 39 U.S.C. § 401(a)(4); see also POM § 212.1 (establishing procedures for selection of designs for postal stationery). Additionally, much of the information sought in interrogatories 1, 2, and 3 is historical, dating back to the mid-1980s and possibly to earlier decades, and therefore would be of no utility in evaluating the Postal Service's proposal for a stamped card fee. Given its age, moreover, it is uncertain whether any such information exists, and, even if it does, the burden imposed on the Postal Service to search for any existing data would be manifestly undue, particularly given the complete lack of relevance the requested information has on the subject matter of this proceeding. While this information may be of interest to philatelists or hobbyists, it simply has no bearing on the Commission's evaluation of the classification and pricing criteria of 39 U.S.C. §§ 3622 and 3623.

Its irrelevance notwithstanding, interrogatory 3 is objectionable on grounds that it calls for information protected from disclosure by the deliberative process privilege. Interrogatory 3 inquires about deliberations that may or may not have taken place regarding prospective postal card issues. Since no final decisions on this topic have been announced, the interrogatory seeks confidential predecisional, privileged information involving policy decisions that are the exclusive province of postal management.

*Interrogatory DFC/USPS-4.* The nature of the information sought to be elicited in interrogatory 4 is irrelevant to the matters at issue in this proceeding. Interrogatory 4 seeks information on the identity of a postal card manufacturer and its operations and a

comparison of prices paid by the Postal Service to contractors for the printing and production of postage stamps. The decision to select a supplier, and the underlying basis for the award of a contract to a supplier, is strictly a managerial prerogative *having no bearing on the proposals at issue here. The amount paid by the Postal Service to postage stamp suppliers for the production of postage stamps also has no bearing on the proposals before the Commission. Interrogatory 4 is further objectionable in that it calls for commercially sensitive information. Subpart (c) seeks disclosure of comparative information about prices paid to suppliers of postage stamps. Release of such information would compromise the Postal Service's procurement of stamp stock by giving prospective bidders substantial bargaining power.*

*Interrogatory DFC/USPS-5.* Interrogatory 5 asks whether there has been at least one instance in the past 12 months in which the *Postal Service* has provided return receipt service in a manner contrary to its established procedures. The Postal Service has already supplied an answer to a request for admission propounded by Mr. Carlson on the very same subject;<sup>1</sup> consequently, the interrogatory is objectionable on grounds that it is cumulative. The interrogatory also incorrectly assumes that the unauthorized practices of postal employees can be imputed to the Postal Service. That assumption is mistaken, for the government is not bound by the unauthorized acts of its agents.

Even assuming Mr. Carlson intended to inquire about the practices of postal employees in providing return receipt service, the interrogatory is still objectionable.

---

<sup>1</sup> See Response of United States Postal Service to Request for Admissions of Douglas F. Carlson (filed October 25, 1996).

First, preparing a response to this interrogatory could be unduly burdensome. If information on this subject is not available at Headquarters, delivery units across the country would have to be polled until one identified an incident in the past 12 months in which a postal employee provided return receipt service in a manner described by Mr. Carlson. Secondly, the information is of no relevance. Even assuming a single postal delivery employee provided return receipt service in the past 12 months in a manner described in the interrogatory, such incident, in and of itself, could hardly be said to be of any use to the Commission's evaluation of the return receipt proposal.

*Interrogatory DFC/USPS-6.* In addition to the general objection, interrogatory DFC/USPS-6 is objectionable on grounds that it purports to be, but is not, follow-up to the response to Presiding Officer's Information Request No. 4, question 8. Mr. Carlson previously filed a virtually identical interrogatory denominated as DFC/USPS-T1-1, to which the Postal Service objected on the grounds that it could have been propounded during the regular discovery period, that it was not proper follow-up as that term is defined by Special Rule 2.D, and that in any event, Special Rule 2.D applies only to answers furnished in response to interrogatories and not to those responding to Presiding Officer's Information Requests.<sup>2</sup> While the question has changed somewhat, Mr. Carlson has apparently responded to the objection by instead asking for an

---

<sup>2</sup> Objection of the United States Postal Service to Douglas F. Carlson Follow-Up Interrogatory to Witness Lyons, filed November 1, 1996 (while bearing the nominal date of November 4, 1996). The Postal Service hereby adopts the arguments presented in that objection, which continue to bear on this interrogatory but which do not bear repeating in the same level of detail.

institutional response. DFC/USPS-6 still could have been propounded during the regular discovery period,<sup>3</sup> but since the interrogatory is now styled as an institutional rather than as follow-up *per se*, the pertinent Special Rule is 2.E. It is not follow-up as that term is used in Rule 2.D because the response on which the interrogatory purports to follow upon was not an interrogatory response but one to a Presiding Officer's Information Request. Similarly, as indicated above, Rule 2.E. is inapplicable here since Mr. Carlson has already filed his rebuttal testimony.

*Conclusion*

WHEREFORE, for the foregoing reasons, the United States Postal Service objects to interrogatories DFC/USPS-1-6.

Respectfully submitted,

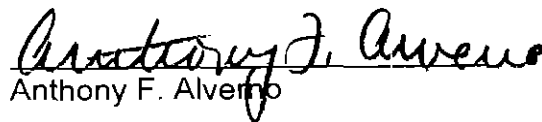
UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Ratemaking



\_\_\_\_\_  
Kenneth N. Hollies

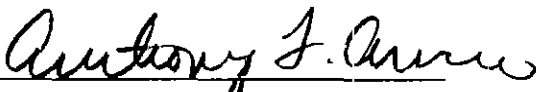
  
Anthony F. Alverno

---

<sup>3</sup> The exception to this is subpart a of DFC/USPS-6 which somewhat curiously inquires whether witness Lyons' response to POIR No. 4, question 8 is the Postal Service response. Since witness Lyons appears in this case in his capacity as a postal employee and policy witness in this case, subpart a is cumulative and redundant, and objected to on these additional grounds.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

  
\_\_\_\_\_  
Anthony F. Alverno

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2997; Fax -5402  
November 25, 1996