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POSTAL RATE COMMISSION
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PRESIDING OFFICER'S
RULING NO. R2000-1/33

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Rate and Fee Changes

Docket No. R2000-1

**RULING ON CARLSON MOTION TO COMPEL
RESPONSES TO INTERROGATORIES DIRECTED TO USPS
(DFC/USPS-38 and 45; DFC/USPS-42)
AND TO WITNESS MAYO (USPS-T39-36(B)-(D))**

(Issued April 10, 2000)

This ruling addresses the motion practice surrounding certain interrogatories Douglas F. Carlson has directed to the Postal Service and one interrogatory directed to witness Mayo.

DFC/USPS-38 and 45. In these related interrogatories, Mr. Carlson asks (in No. 38) for confirmation that the responses the Postal Service has provided to three previous questions on Sunday collection and processing (DFC/USPS-3, 5 and 8) "may not be true or accurate" and asks (in No. 45) for true and accurate responses. The Service objects to both interrogatories on grounds that they lack relevance, are blatantly argumentative, and offensive. See February 28, 2000 Objection of the United States Postal Service to Carlson Interrogatories DFC/USPS-38-39, 42-45. ("Postal Service Objection.")¹

The underlying set of questions. Question 3 asked for an explanation of current policy on Sunday collections and outgoing First-Class Mail (FCM) processing, along

¹ In a later filing, the Service states that Mr. Carlson's motion to compel should be denied as untimely, or its untimeliness should be taken into consideration. See April 3, 2000 Opposition of the United States Postal Service to Carlson Motion to Compel Responses to DFC/USPS-38, 42 and 45, and DFC/USPS-T39-36(b)-(d) at 1-2. Given the uncertainty surrounding the date of mailing vis-à-vis receipt at the Commission, I am not denying the motion on the basis of untimeliness.

with pertinent documents and directives. The Service stated that its policy is not to conduct Sunday collections or outgoing FCM processing, except during the holiday season or as a contingency for unusual circumstances. It also provided a copy of a 1988 memorandum transmitting guidelines on this policy to the regions.

Question 5 asked for confirmation that some customers have access to outgoing FCM mail processing on most Sundays in their home town or by traveling a distance less than 50 miles. The Service stated that it did not confirm this statement, and referenced its response to DFC/USPS-3.

Question 8, subpart (a) asked for a list of processing plants that regularly process outgoing FCM on Sundays and the reasons why they do so. Subpart (b) asked, with respect to any identified plants, whether the Service considers outgoing Sunday mail processing "an operating procedure that reduces costs overall." It also asked whether Sunday mail processing, if reinstated, might reduce overall costs at other plants. Subpart (c) asked for a list of all other processing plants that send their outgoing mail on Sundays to a plant that processes outgoing mail on Sundays.

In response, the Service said it was not aware of any plants that regularly process outgoing First Class collection mail on Sundays. Given this answer, no list was provided. However, the Service further noted that to better serve the public, many plants process some outgoing FCM (such as missent, forwarded or returned-to-sender pieces) on Sundays. It also acknowledged that at large plants, this processing may be "so frequent as to be construed as regular."

Rationale for seeking compelled answers. Mr. Carlson moves for compelled answers based on his contention that the questions seek information relevant to two of the eight statutory ratemaking criteria, in terms of certain inter-subclass comparisons. March 10, 2000 Douglas F. Carlson Motion to Compel United States Postal Service to Respond to Interrogatories DFC/USPS-38, 42, and 45 and DFC/USPS-T39-36(b)-(d) at 2, invoking 39 U.S.C. § 3622(b)(2) and § 3622(b)(5). ("Carlson Motion to Compel.") He also claims that participants advocating changes in cost coverage based on the

availability of Sunday collection and processing must have reliable information with which to work, as must the Commission. *Id.*

Carlson further states that while the Service has “flatly denied” that any processing plants regularly process outgoing FCM on Sundays, he has reliable information, including his own test mail, confirming that some facilities do, in fact, “regularly process” this mail on Sundays. *Id.* at 2. He also claims that because the Service has acknowledged the possibility of isolated exceptions, this must be taken as a concession that the requested confirmation must be provided. *Id.* at 3. As for questions 5 and 8, Carlson says these “require discussion of any exceptions.” Therefore, he contends that if exceptions exist, isolated or not, the Service’s responses to these questions are incorrect.

The Service’s position. In its objection, the Service reviews the attempts it has made to provide information, notwithstanding concerns about the relevance of the questions. February 28, 2000 Objection of the United States Postal Service to Carlson Interrogatories DFC/USPS-38-39, 42-45. (“Postal Service Objection.”) It also takes issue with what it characterizes as Mr. Carlson’s attempt to bootstrap a new line of inquiry on inter-subclass comparisons into an argument supporting the relevance of his original questions. *Id.* at 2. The Service reiterates that it has stated its nationwide policy on Sunday processing, and that this is more than sufficient for any comparisons Mr. Carlson might care to make. *Id.* at 2-3. In its opposition to Mr. Carlson’s motion to compel, the Service repeats these points, and indicates that the main point of contention appears to center on whether the processing that does occur on Sundays is “regular.” Opposition of the United States Postal Service to Carlson Motion to Compel Responses to DFC/USPS-38, 42 and 45, and DFC/USPS-T39-36(b) and (d). (“Postal Service Opposition.”)

Decision. Having reviewed the answers the Service has provided to the underlying questions, as well as the additional information provided in pleadings related to Mr. Carlson’s motion, I find no basis for the assertion that the underlying responses are not true and accurate. Given the vast scope of the operations the Service oversees,

it should be understood that exceptions to a general policy may exist. In fact, the guidelines the Service has submitted explicitly note certain departures, such as the processing of Social Security checks and holiday mail. Thus, the contention that "even isolated exceptions" will render a general statement about policy incorrect and subject to amendment is not persuasive under the circumstances here.

As the record now stands, I believe the scope of the national policy is clear, as well as the nature of possible qualifications, limitations, and conditions. Thus, it seems unnecessary to pursue differences over the meaning of "regular processing" at this point. Further argument can be made on brief. Therefore, the requested relief is not granted.

DFC/USPS-42. Subpart (a) of this interrogatory asks the Service to provide a copy of a page from a recent edition of *Postal Life* that lists the locations of postal facilities that offer window service on a 24/7 basis. Subpart (b) asks for an explanation, for each facility listed, whether FCM, Priority Mail, and Express Mail will be processed and dispatched if a customer tenders it to that facility on a Sunday.

The Service generally objects to this interrogatory on grounds that it is irrelevant. However, it indicates it is providing information on nationwide policies for Sunday handling of each subclass in response to question 41. It asserts that addressing the same topic on a facility-by-facility basis would be irrelevant, duplicative and potentially burdensome.

Decision. A plain reading of Mr. Carlson's motion leaves the clear impression that he is now in possession of the requested page from *Postal Life*. If this is correct, I see no need for the Service to provide another copy, and the motion to compel is deemed moot in this respect. If Mr. Carlson does not have the material in question, he shall so inform me, and appropriate steps will be taken to ensure that it is produced.

With respect to subpart (b), I generally agree with the reasons the Service has raised in its pleadings for not being required to address policies for each subclass on a facility-by-facility basis. The burden entailed in this effort seems clearly outweighed by any benefit, especially since the Service has provided information in response to

question 41 that should assist Mr. Carlson. Accordingly, I will not compel a response to this aspect of the interrogatory.

Carlson interrogatory to witness Mayo (DFC/USPS-T39-36(b)-(d)). In subpart (b) of DFC/USPS-T39-36, Mr. Carlson asks for an explanation of why customers with post office boxes at certain named offices or stations may not receive mail and access their boxes on Saturdays.² Subpart (c) asks for the approximate year one of these stations (Byron Rumford) was constructed. Subpart (d) asks witness Mayes to confirm that access to the box section on Saturdays at the Byron Rumford Station “could not have been accommodated architecturally” or, if she does not confirm, to explain.

Postal Service objection. The Service objects on grounds of relevance, materiality, and burden. Postal Service Objection at 1. In particular, the Service asserts that these “detailed operational questions” lack relevance to any issue in this proceeding. *Id.* at 2. It cites P.O. Ruling No. R97-1/53 for the proposition that, while details of a service may be relevant to its value, operational details of a service are beyond the scope of material issues in a rate proceeding. *Id.* at 5.

Moreover, the Service says that these questions ask for details that are not known to any witness, and asserts that the burden of obtaining it is not justified by any need in this proceeding. *Id.* at 2. It also says that it “appears that Mr. Carlson may know more about these facilities than the Services rate case team, so that such operational matters, if relevant, might be more suited to Mr. Carlson’s testimony, than to discovery.” *Id.*

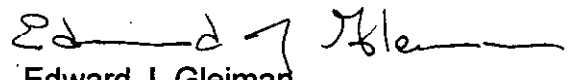
Decision. Although I accept the Service’s assertion that no witness participating in this case knows the answers to the questions Mr. Carlson asks, I also find that he has made a minimal showing that at least some formal statement about access to boxes on Saturdays may help inform the record. For example, Mr. Carlson notes that he seeks the requested information because he believes that basing post office box fees on facility rental costs alone, as the Service proposes, is inappropriate. The Postal

² Byron Rumford station (Oakland, CA), the Babb, Montana post office, and Port Authority Bus Terminal station (in New York City).

Service, with minimal burden, could contact the postmasters at the designated facilities by telephone to determine whether there is a pre-existing written policy, statement or other guidance addressing reasons why no Saturday access is provided. If a pre-existing document is available, it should be provided. If no documents exist (or cannot be found following a brief search), the Service should so indicate. With respect to subpart (d), I also ask that the Service provide for the record some basic information about the architecture of the Oakland station Mr. Carlson refers, for background. If the Service cannot confirm that the architecture precludes access, it may simply say so. I will not require an answer to subpart (c) — the date the Oakland station was built — as there is no showing of relevance.

RULING

1. The March 27, 2000 Douglas F. Carlson Motion to Compel United States Postal Service to Respond to Interrogatories DFC/USPS-38, 42, and 45 and DFC/USPS-T39-36(b)-(d) is disposed of as follows, in accordance with the discussion in the body of this ruling:
 - a. it is denied with respect to DFC/USPS-38 and 45 in their entirety;
 - b. it is deemed moot with respect to the request for a copy of the page of Postal Life referred to in DFC/USPS-42(a);
 - c. it is denied with respect to the explanation requested in DFC/USPS-42(b);
 - d. it is granted in part with respect to DFC/USPS-T39-36(b) and 36(d); it is denied with respect to subpart (c).


Edward J. Gleiman,
Presiding Officer