

**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001**

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

**DOUGLAS F. CARLSON
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE
TO RESPOND TO INTERROGATORIES
DFC/USPS-81-84 and DFC/USPS-T31-8, 10-13, 15, and 17**

April 22, 2000

On April 10, 2000, I filed interrogatories DFC/USPS-81-84 and DFC/USPS-T31-8, 10-13,15, and 17. These interrogatories explore the Postal Service's proposal to base fees for post-office boxes on facility rental costs, irrespective of whether the Postal Service is actually incurring rental costs. The interrogatories appear at the end of this motion. The Postal Service filed objections based on relevance and timeliness.¹

These interrogatories are critically important to participants' and the Commission's review of the Postal Service's proposed reclassification of post-office-box fees. All interrogatories are proper, relevant, and timely. Moreover, even if my interrogatories are not proper follow-up or timely, the Postal Service's delayed filing of critical box-utilization data would justify a motion for late acceptance. For these reasons, I move to compel the Postal Service to respond to these interrogatories.

Context of the Interrogatories

The Postal Service is proposing to base box fees on facility rental costs. This proposal may be logical for rented facilities. However, for Postal Service-owned facilities, the Postal Service proposes to charge customers fees based on the rental costs that the Postal Service would incur *if the Postal Service rented the facility*. The

¹ Objection of United States Postal Service to Interrogatories DFC/USPS-81-84 of Douglas F. Carlson (filed April 20, 2000) (Objection #1) and Objection of United States Postal Service to Interrogatories DFC/USPS-T31-8, 10-13, 15, and 17 of Douglas F. Carlson (filed April 20, 2000) (Objection #2).

Postal Service owns approximately 28 percent of all postal facilities.² (I do not yet know the proportion of boxes that are located in Postal Service–owned facilities.) This proposal clearly would seriously overcharge a substantial portion of box customers because these customers would pay fees based on rental costs that the Postal Service does not, in fact, incur.

In interrogatory responses filed on April 6, 2000, witness Yezer explicitly explained, for the time, how he calculated facility rental costs for boxes located in facilities that the Postal Service owns.³ He estimated “cost per square foot of interior space if the facility were leased on a standard 5-year basis.”⁴ He justified imputing rental costs for Postal Service–owned facilities by asserting that costs should include the “opportunity cost of space,”⁵ a concept he introduced for the first time in this interrogatory response. He added, “If prices do not reflect opportunity cost of space then the Postal Service does not have the proper incentive to expand services.”⁶

Meanwhile, the box-utilization data provided in USPS-LR-I-241 on March 24, 2000, reveal that no nationwide shortage of boxes exists. Absent a shortage of boxes, the Postal Service has little need to expand facilities. Therefore, the Postal Service should not be charging customers for the opportunity cost of space at Postal Service–owned facilities that do not suffer from a shortage of boxes. Moreover, in Docket No. MC96-3, the Postal Service admitted that it could not assure the Commission that it would, in fact, use higher box fees to finance expansion of box sections.⁷ Thus, even at post offices where capacity constraints and long waiting lists might justify higher box fees, the Postal Service may not use these revenues to expand box sections.

Procedural Background

The dispute over the timeliness of these interrogatories is a direct result of the Postal Service’s failure to file a portion of its direct case concerning proposed fees for boxes until after the close of discovery. When the Postal Service filed its request on January 12, 2000, the Postal Service filed a motion for protective conditions of witness

² USPS-T-31 at 11.

³ DFC/USPS-T31-1 and 2 (filed April 6, 2000).

⁴ DFC/USPS-T31-1.

⁵ DFC/USPS-T31-2.

⁶ *Id.*

⁷ Docket No. MC96-3, Tr. 3/692.

Yezer's analysis.⁸ On March 10, 2000, the presiding officer issued POR R2000-1/11 granting the Postal Service's motion for protective conditions and directing the Postal Service to provide the materials to the Commission. I submitted a certification statement to the Commission on March 16, 2000. The Postal Service did not file the materials with the Commission until March 24, 2000, one day after the close of discovery.⁹ I received the materials on Wednesday, March 29, 2000, but I was unable to open the primary data file, "zplist4", that contained box-utilization data. I was out of town on a previously scheduled trip and was unable to work on the problem with the file between March 31, 2000, and April 2, 2000. Then, postal counsel did not respond to my e-mail message dated April 3, 2000, in which I requested assistance in opening the file. Fortunately, Commission staff provided the necessary assistance, and by April 6, 2000, I had a working file for review. Based on information contained in the data file and witness Yezer's April 6, 2000, response to my timely filed interrogatories DFC/USPS-T31-1-7, I served the interrogatories in dispute on April 8, 2000.

Discussion of the Interrogatories

As a preface, many of my interrogatories follow up on DFC/USPS-T31-2. In response to DFC/USPS-T31-2, witness Yezer explained, for the first time in this proceeding, his proposal to charge for the "opportunity cost of space" in Postal Service-owned facilities, thus opening the door to follow-up interrogatories related to this justification. No mention of opportunity cost appears in witness Yezer's testimony. Also absent is any discussion of the justification for charging box customers for rental costs for boxes in Postal Service-owned buildings for which the Postal Service pays no rent.

Following up on witness Yezer's response to DFC/USPS-T31-2, and using the newly supplied data on box utilization, I filed interrogatory DFC/USPS-T31-8 to ask witness Yezer to describe the necessary conditions that must exist for him to conclude that a shortage of boxes exists that is severe enough to warrant installation of additional boxes.¹⁰ For example, as DFC/USPS-T31-13 probes, even if all boxes at a facility are in use, expansion is not necessarily warranted, as the facility may be operating at

⁸ Motion of United States Postal Service for Waiver and for Protective Conditions for Analysis of Witness Yezer (filed January 12, 2000).

⁹ USPS-LR-I-241 (filed March 24, 2000).

¹⁰ If witness Kaneer is more qualified to discuss box shortages than witness Yezer, the Postal Service should redirect my interrogatories, as the instructions on the cover page of my interrogatories request.

equilibrium or with a short waiting list — and, thus, little unsatisfied demand. Since the Postal Service is proposing to charge customers box fees based on phantom rental costs, these interrogatories will assist the Commission in analyzing the box-utilization data to determine the extent to which box expansion — the only possible justification for this quirky pricing scheme — might be warranted. Therefore, these interrogatories are relevant. Moreover, they follow up on the response to DFC/USPS-T31-2 by examining the need to charge for the opportunity cost of space since this pricing concept presupposes a box shortage. These interrogatories also follow up on the data the Postal Service filed in USPS-LR-I-241 on March 24, 2000, as part of its direct case.

Interrogatory DFC/USPS-T31-10 similarly follows up on DFC/USPS-T31-2 and the data provided in USPS-LR-I-241 in asking the Postal Service, point blank, to describe the extent to which a shortage of boxes exists nationwide.

DFC/USPS-T31-11 asks witness Yezer whether expansion is justified if a facility has sufficient box capacity to accommodate all customers. This interrogatory follows up on DFC/USPS-T31-2 and the data provided in USPS-LR-I-241. It is relevant because it explores the wisdom of charging for the opportunity cost of space at post offices that have no box shortage and, therefore, no need to expand box services.

DFC/USPS-T31-12 asks whether box customers should contribute financially to construction of new postal facilities to a greater extent than the increase in the rental-related costs of providing box service at the new post office. If not, higher box fees at Postal Service-owned facilities are not justified for the purpose of building new post offices except to the extent that the fees finance increased rental costs (if any) of providing box service at the new post office. If yes, witness Yezer should explain why box customers should subsidize expansion of postal facilities beyond the extent to which costs attributable to their boxes increase. Again, this interrogatory follows up on DFC/USPS-T31-2 and witness Yezer's theory about opportunity cost of space.

DFC/USPS-T31-15 asks witness Yezer to explain the effect on consumer surplus and producer surplus of a \$10 fee increase for box service. This interrogatory follows up on DFC/USPS-T31-2 because this information will assist in analyzing the effects on customers of charging them for the opportunity cost of rental space. Since the opportunity cost of space is the theory underlying witness Yezer's proposal to charge box customers for rental costs that the Postal Service does not incur, participants

should be able to weigh the perceived benefits of the opportunity-cost approach against lost consumer surplus.

Interrogatory DFC/USPS-T31-17 restates DFC/USPS-T31-7(e), which witness Yezer claimed he did not understand. The Postal Service states that “It is not clear on what interrogatory DFC/USPS-T31-17 follows up[.]”¹¹ It is hard to imagine an interrogatory that more definitively qualifies as follow-up than an interrogatory that restates a question, with clarification, that the witness did not understand the first time.

Interrogatory DFC/USPS-81 asks several questions to determine the proportion of post-office boxes that are located in Postal Service–owned buildings. I asked several variations of the question because I do not know which of the data the Postal Service has. This information is critically relevant to determining the number of box customers whom the Postal Service seeks to charge for nonexistent rental costs. This interrogatory follows up on DFC/USPS-T31-2, where witness Yezer introduces his theory on charging for opportunity cost of space.

Interrogatory DFC/USPS-82 inquires into the government agencies from which the Postal Service rents space and asks whether the Postal Service pays rent to those agencies. Again, this interrogatory is relevant to understanding the scope of the Postal Service’s proposal to charge boxholders for nonexistent rental costs.

Interrogatory DFC/USPS-83 asks whether the Postal Service will earmark increased fee revenues to expand box sections. DFC/USPS-84 asks for the process by which the Postal Service reviews proposals for box-section expansions. These questions are critically important because, in Docket No. MC96-3, the Postal Service refused to commit to use revenues from higher box fees to expand box sections.¹² If the Postal Service will not commit to using higher fees to expand box sections, little basis exists for raising any box fees under the rubric of financing box-section expansions. The approval process for expansions is relevant as well because the managers who approve projects may not have the same financial incentives as the local officials who propose the expansions, thus destroying the nexus among higher fees, proper economic incentives, and actual box-section expansions. These interrogatories clearly are relevant, and they follow up on DFC/USPS-T31-2 and USPS-LR-I-241.

¹¹ Objection #2 at 2.

¹² Docket No. MC96-3, Tr. 3/692.

Due-Process Concerns Justify Late Acceptance

Even if any of my interrogatories are not considered proper follow-up, due-process concerns justify — indeed, dictate — late acceptance of my interrogatories.

The Postal Service filed a portion of its request to raise box fees on January 12, 2000. The Postal Service filed the remainder of its request on March 24, 2000, one day after the discovery period ended. In its objections, the Postal Service advocates a piecemeal approach whereby participants interested in examining box fees would be required to ask all questions pertaining to testimony filed on January 12, 2000, by the discovery deadline, March 23, 2000. After March 24, 2000, when the Postal Service finally filed the missing part of its request to raise box fees, participants, under the Postal Service's version of due process, would then be permitted to file interrogatories concerning the additional information only. For example, in its objection, the Postal Service writes that witness Kaneer testified that his reclassification proposal "would improve the incentive for the Postal Service to address post office box shortages."¹³ Overlooking the fact that witness Kaneer did not discuss box shortages in any detail, let alone mention that box shortages are not a problem nationwide, the Postal Service concludes that discussion of this subject, however brief, in earlier testimony should preclude follow-up interrogatories to witness Yezer's response to DFC/USPS-T31-2 — a response that presupposes existence of box shortages as a justification for the newly introduced concept of charging box customers for the opportunity cost of space.

The Postal Service's objections fail to acknowledge that late-filed information may expose previously latent issues. Participants have a due-process right to receive the Postal Service's *entire* request concerning a particular rate or fee, then to have reasonable time to analyze the information, reflect on it, ponder it, and file interrogatories. Recognizing the importance of these analytical processes, the presiding officer provided 71 days to conduct discovery on the Postal Service's direct case.

When witness Yezer answered DFC/USPS-T31-1 and 2 on April 6, 2000, I understood for the first time that the Postal Service intended to impute a rental cost to Postal Service-owned facilities, thus charging customers for rent that the Postal Service is not paying. Witness Yezer justified this approach by asserting that customers should

¹³ Objection #2 at 1 and Objection #1 at 2.

be charged for the opportunity cost of space in order to provide postal managers the appropriate financial incentive to expand box sections. Again, he introduced the concept of opportunity cost of space for the first time in this interrogatory response. On the same day, I analyzed the box-utilization data provided in newly filed USPS-LR-I-241 and discovered that most postal facilities do not have capacity constraints, a fact that witness Kaneer did *not* reveal in his testimony. With all pieces of the puzzle finally present, issues of box shortages, expansion of box facilities, and earmarking higher fees for box expansions — issues that previously lay dormant — suddenly were critically important. Information that seemed uncontroversial for the entire discovery period, such as witness Kaneer’s testimony about box shortages, took on a whole new meaning when the Postal Service finally provided the missing information contained in USPS-LR-I-241 — which revealed that most facilities do not have a box shortage.

While participants had 71 days to piece information together for other issues in this case, draw conclusions, and file interrogatories, the discovery deadline had already passed by the time my opportunity to study the entire box proposal arose. Nonetheless, in just two days, I conducted the necessary analysis and connected the various pieces of the Postal Service’s proposal. I served my interrogatories on April 8, 2000. Due process demands that participants have an opportunity to consider all the information that the Postal Service provides in its direct case and then file discovery. I accomplished these tasks in just two days. My diligence is grounds for late acceptance of these interrogatories considering the Postal Service’s 72-day delay in providing the necessary portions of its direct case.

The Postal Service also would have the presiding officer believe that participants should have known from witness Yezer’s testimony that he was imputing rental costs to Postal Service–owned buildings to charge customers for rental costs that the Postal Service is not incurring.¹⁴ Witness Yezer’s approach is counterintuitive, so merely discussing facility rental costs, as he does in his testimony, did not provide participants with sufficient notice that rental costs will be assigned to facilities for which the Postal Service pays no rent. Nowhere in his testimony does he discuss “opportunity cost” or “opportunity cost of space.” Even still, his testimony, by seeming to avoid this critical issue, aroused my suspicions sufficiently to cause me to file timely discovery to obtain

¹⁴ Objection #1 at 1.

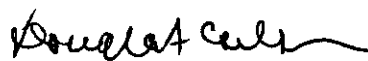
some direct answers¹⁵ — but the Postal Service is now attempting to block follow-up interrogatories to witness Yezer's response to DFC/USPS-T31-1 and 2. Also, if witness Yezer's testimony covered these issues as clearly as the Postal Service suggests, witness Yezer seemingly would have simply referred me back to his testimony, rather than providing responses to DFC/USPS-T31-1 and 2 that contain new information.

Conclusion

My interrogatories constitute proper follow-up. They also are fundamentally relevant to probing the Postal Service's novel proposal to base box fees on facility rental costs, even for facilities for which the Postal Service incurs no rental costs. To base fees on nonexistent rental costs would be unfair (Criterion 1). Participants also must know the number of boxholders who will be overcharged under this proposal in order to evaluate the effect of this fee increase on the public (Criterion 4). And participants must know the extent to which box shortages exist because charging for the opportunity cost of space would be unjustified if most box sections do not need to be expanded.

Even if my interrogatories do not constitute proper follow-up, the presiding officer should permit these interrogatories as late-filed discovery on the grounds that the Postal Service did not file its entire direct case for box fees until after the discovery period ended. Since facts and issues in a rate case are interdependent, and since the Postal Service often scatters relevant information throughout the case, participants must have sufficient time to evaluate the full Postal Service request concerning each rate and fee and then file discovery. I submitted the interrogatories in question just two days after I obtained access to USPS-LR-I-241 and reviewed witness Yezer's responses to DFC/USPS-T31-1 and 2. I acted promptly and diligently despite having been denied access to a core part of the Postal Service's request until after the discovery period ended. My quick action justifies late acceptance of these interrogatories given the Postal Service's 72-day delay in filing relevant data for the box-fee proposal.

Respectfully submitted,



DOUGLAS F. CARLSON

Dated: April 22, 2000

¹⁵ See DFC/USPS-T31-1-3 (filed March 23, 2000).

TEXT OF ORIGINAL INTERROGATORIES

DFC/USPS-T31-8. Please describe the necessary conditions that must exist for you or the Postal Service to conclude that a shortage of post-office boxes exists at a particular facility that is severe enough to warrant installation of additional boxes.

DFC/USPS-T31-10. Please refer to your response to DFC/USPS-T31-2. Please discuss specifically the extent to which a shortage of available post-office boxes exists nationwide.

DFC/USPS-T31-11. Do you believe that expansion of a box section or installation of new boxes at a facility would be justified if the facility had sufficient box capacity (and no waiting list) to provide boxes to all customers who requested boxes and if the Postal Service did not expect this demand situation to change? If yes, please explain.

DFC/USPS-T31-12. From the point of view of fairness and economic efficiency, should box customers in a city contribute financially to construction of a new and larger post office in their city to a greater extent than the increase in the rental-related costs (as you calculated rents) of providing box service at the new post office? Please explain.

DFC/USPS-T31-13. Please refer to the "zplist4" file in USPS-LR-I-241. Some facilities have the same number of boxes installed as the number of boxes in use. In your opinion, does a shortage of boxes necessarily exist at these facilities? Please explain.

DFC/USPS-T31-15. Please refer to your response to DFC/USPS-T31-2. Suppose the annual fee for a post-office box in a Postal Service–owned building is \$45. Suppose, further, that the Postal Service proposes a fee of \$55 for this box. In addition, the box is located in a facility where no shortage of boxes exists, and no shortage is foreseeable in the next several years. Please discuss the effect of this \$10 fee increase on consumer surplus and producer surplus.

DFC/USPS-T31-17. Please confirm that, due to Postal Service decisions on locating postal facilities, customers may use a postal facility for reasons other than the convenience of the facility's location. (For example, a post office located in a mall may be the only post office in a particular city or community, but customers may not find a mall location convenient.) Note that this question does not state or require that the customer finds the location convenient. If you do not confirm, please explain.

DFC/USPS-81. Please refer to the response to DFC/USPS-T31-3.

- a. Please provide the number of postal facilities that offer post-office-box service that are located in Postal Service–owned buildings.
- b. Please provide the number of postal facilities that offer post-office-box service that are located in buildings owned by a government agency other than the Postal Service.
- c. Please provide the number of postal facilities that offer post-office-box service that are located in buildings owned by private, non-government agencies and for which the Postal Service pays rent.
- d. If and only if data for (a), (b), or (c) are not available, please provide the information requested in the original sentence with the clause "that offer post-office-box service" deleted.

- e. If and only if data for (a), (b), or (c) are not available, please provide the information requested in the original sentence with the clause "that offer post-office-box service" replaced with "that offer services directly to customers (excluding, e.g., vehicle-maintenance facilities and office buildings)".
- f. Please provide the percentage of installed post-office boxes that are located in Postal Service-owned buildings.
- g. Please provide the percentage of installed post-office boxes that are located in buildings owned by a government agency other than the Postal Service.
- h. Please provide the percentage of installed post-office boxes that are located in buildings owned by private, non-government agencies and for which the Postal Service pays rent.
- i. If the percentages in (f), (g), and (h) do not sum to 100, please explain the types of buildings in which post-office boxes are located that (f), (g), and (h) do not describe.

DFC/USPS-82.

- a. If the Postal Service occupies buildings owned by government agencies other than the Postal Service, please name the top two to three government agencies (in quantity) whose buildings the Postal Service occupies.
- b. Does the Postal Service pay rent to the agencies described in (a)? Please explain.

DFC/USPS-83. Please refer to the response to DFC/USPS-T31-2. Suppose the Commission recommends and the Governors approve the new post-office-box fees that the Postal Service has proposed in this case. Can the Postal Service assure participants and the Commission that increased fee revenues will be earmarked or otherwise used to expand box facilities where box shortages exist? Please explain.

DFC/USPS-84. Please explain the process by which box-section expansions will be initiated, reviewed, and approved or denied if the proposed new box fees are implemented.

CERTIFICATE OF SERVICE

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



DOUGLAS F. CARLSON

April 22, 2000
Emeryville, California