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POSTAL RATE COMMISSION
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PRESIDING OFFICER'S
RULING NO. R2000-1/61

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

Postal Rate and Fee Changes

Docket No. R2000-1

RULING GRANTING DOUGLAS F. CARLSON'S
APRIL 18TH MOTION TO COMPEL

(Issued May 15, 2000)

On April 18, 2000, Douglas F. Carlson filed a motion to compel a response to DFC/USPS-72, which requests the Postal Service to identify all policies concerning its obligation, if any, to deliver mail six days a week.¹ The Postal Service opposes the motion, arguing that it should not be required to do legal research for Mr. Carlson, and that policies regarding delivery six days a week are not relevant to this proceeding.² The motion is granted.

Carlson's Motion. Mr. Carlson's argument focuses on the Postal Service's proposal concerning post office boxes. He argues that the proposed fee structure, which he describes as based on facility rental costs, fails to consider other aspects of box service affecting value of service, including, for example, delivery service less frequently than six days a week. In addition, he relies on POR R2000-1/33, which granted, in part, a previous Carlson motion to compel, finding that he had "made a

¹ Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-72, April 18, 2000 (Motion).

² Opposition of United States Postal Service to Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-72, April 24, 2000 (Opposition).

minimal showing that at least some formal statement about access to boxes on Saturdays may help inform the record.”³

Mr. Carlson criticizes, as invalid, the Postal Service’s objection that he, not the Service, be required to do his own legal research. In support he cites, POR R2000-1/28, which held, *inter alia*, that “[t]he Postal Service, being most familiar with Postal Service documentation and information, is the logical party to ask.”⁴

Postal Service Opposition. Initially, the Postal Service objected to DFC/USPS-72, citing materiality and relevance.⁵ In its Opposition, the Postal Service reiterates its belief “that intervenors should do their own legal research.”⁶ Further, in support of its belief that the policies concerning delivery six days per week are irrelevant, the Postal Service advances two arguments.⁷ First, it argues that because box service does not provide delivery but is merely a receptacle for the receipt of mail, delivery policies would be relevant, if at all, only if the policies differentiated between carrier and post office box delivery. Therefore, the Postal Service concludes, “the interrogatory is at best overbroad if [the] concern is with post office box service.”⁸ Second, the Postal Service implies that the premise of Mr. Carlson’s argument is flawed. Thus, the Postal Service contends, if, as Mr. Carlson appears to advocate, post office box service classifications are to be established on the basis of delivery frequency, the comparison would necessarily focus solely on delivery via post office box. The Postal Service concludes

³ Motion at 2, quoting POR R2000-1/33 at 5.

⁴ *Id.*, quoting POR R2000-1/28 at 5.

⁵ Objection of the United States Postal Service to Interrogatories of Douglas F. Carlson (D[F]C/USPS-71-73, and 75)(April 3, 2000) at 1. The Postal Service also argued that Mr. Carlson should do his own legal research. *Ibid.*

⁶ Opposition at 1.

⁷ Specifically, the Postal Service states that it “does not believe that Mr. Carlson has demonstrated a nexus between any policies on 6-day-a-week delivery with issues in this proceeding.” Opposition at 1.

⁸ *Id.* at 2.

therefore that “most policies” on delivery frequency “would not be relevant,” conceding only that “policies differentiating between groups of box customers might be relevant.”⁹

Discussion. The Postal Service’s belief “that intervenors should do their own legal research” is not, under the circumstances, a cognizable objection. While the Postal Service shoulders a heavy burden during the discovery process, identification of policies under which it operates is almost uniquely within its ken. Thus, only infrequently is it likely that the Postal Service could legitimately refuse to respond to such inquiries. Indeed, in general, it would appear that the Postal Service’s practice has been to answer such inquires. See, e.g., responses to DFC/USPS-3, 11, 23(i)-(j), 41(f), 43, and DBP/USPS-115(e), (j), and (m).

DFC/USPS-72 does not request a legal opinion; rather, it is factual in nature. It simply requests an identification of policies, which, in context, would include applicable statutory provisions and Postal Service regulations, concerning the Postal Service’s obligation, if any, to deliver mail six days a week. As such, therefore, the inquiry does not require the Postal Service to undertake any legal research, but merely compile a list.

The Postal Service’s arguments have superficial appeal. To be sure, post office box service serves as a receptacle for the receipt of mail. Nonetheless, that function cannot be viewed entirely in a vacuum since ultimately it represents an integral part of the mailstream.¹⁰ Moreover, the distinction the Postal Service attempts to draw between the interrogatory and information needed to establish separate box service classifications goes largely to the substance of what it assumes to be a likely proposal, rather than demonstrating the policies are irrelevant to matters before the Commission. Stated otherwise, the Postal Service questions the sufficiency of the data requested to

⁹ *Ibid.* As to the latter, the Postal Service notes that it “has not identified any such policies in response to other interrogatories.” *Ibid.*

¹⁰ As the Commission has previously noted: “[p]ost office boxes provide customers with an alternative means of receiving their mail” Opinion and Recommended Decision, Docket No. R97-1, May 11, 1998, at 561.

support what it assumes will be its intended purpose, while conceding the relevance, at least minimally, of policies concerning delivery frequency, at least for some purposes.

Furthermore, the Postal Service's contention that policies concerning delivery frequency are irrelevant is compromised by its answers to previous interrogatories on related matters. See, e.g., Postal Service responses to DFC/USPS-23 (concerning the frequency that mail is received by post offices);¹¹ DBP/USPS-14 (concerning deliveries generally, including to post office boxes); and DBP/USPS-115 (in particular, subpart (j) which requested "[w]ith respect to delivery to post office boxes, provide a regulatory reference which authorizes service less than six days a week.")¹² Consequently, the Postal Service cannot now reasonably contend that an inquiry concerning delivery policies is irrelevant. Regardless, however, there is a sufficient nexus between such policies and issues in this proceeding to require the Postal Service to produce the requested information.

RULING

The Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-72, April 18, 2000, is granted. The Postal Service's response is due no later than May 19, 2000.


Edward J. Gleiman
Presiding Officer

¹¹ See also DFC/USPS-80.

¹² See also witness Bernstein's response to UPS/USPS-41-4(a), indicating that the Postal Service's scale is evinced by, among other things, delivery six days a week.